

FIRST READING DRAFT
REVISED ARLINGTON ZONING BYLAW 06-15-2017

Table of Contents

SECTION 1. PURPOSE AND AUTHORITY	1-1
1.1. TITLE	1-1
1.2. PURPOSES	1-1
1.3. AUTHORITY	1-1
1.4. APPLICABILITY	1-1
1.5. AMENDMENT	1-1
1.6. SEVERABILITY	1-2
SECTION 2. DEFINITIONS	2-1
SECTION 3. ADMINISTRATION	3-1
3.1. ENFORCEMENT, VIOLATIONS, AND PENALTIES	3-1
3.2. ZONING BOARD OF APPEALS	3-2
3.3. SPECIAL PERMITS	3-3
3.4. ENVIRONMENTAL DESIGN REVIEW	3-5
SECTION 5. ESTABLISHMENT OF DISTRICTS	5-11
5.1. DISTRICTS	5-11
5.2. ZONING MAP	5-14
SECTION 6. USE REGULATIONS	6-1
6.1. GENERAL PROVISIONS	6-1
6.2. ACCESSORY USES	6-1
6.3. PERMITTED IN ALL DISTRICTS	6-1
6.4. PROHIBITED USES	6-1
6.5. TABLE OF USES	6-1
SECTION 7. NONCONFORMING USES AND STRUCTURES	7-3
7.1. APPLICABILITY	7-3
7.2. NONCONFORMING USES	7-3
7.3. NONCONFORMING STRUCTURES	7-4
7.4. REDUCTION OR INCREASE	7-6
7.5. RESTORATION, ABANDONMENT, OR NON-USE	7-6
SECTION 8. DIMENSIONAL AND DENSITY REGULATIONS	8-1
8.1. TABLE OF DIMENSIONAL AND DENSITY REGULATIONS	8-1
8.2. GENERAL REGULATIONS	8-1
8.3. LOT SIZE, FRONTAGE, AND LOT AREA PER DWELLING UNIT REGULATIONS	8-4
8.4. FLOOR AREA RATIO REGULATIONS	8-4
8.5. HEIGHT REGULATIONS	8-6

FIRST READING DRAFT
REVISED ARLINGTON ZONING BYLAW 06-15-2017

8.6.	YARD AND SETBACK REGULATIONS	8-7
8.7.	OPEN SPACE REGULATIONS	8-12
SECTION 9. GENERAL REGULATIONS		9-1
9.1.	OFF STREET PARKING AND LOADING REGULATIONS	9-1
9.2.	SIGNS	9-8
SECTION 10. SPECIAL REGULATIONS		10-1
10.1.	INCLUSIONARY HOUSING	10-1
10.2.	HOME OCCUPATIONS	10-3
10.3.	REMOVAL OF SAND, GRAVEL, QUARRY, OR OTHER EARTH MATERIALS	10-4
SECTION 11. SPECIAL DISTRICT REGULATIONS		11-1
11.1.	FLOODPLAIN DISTRICT	11-1
11.2.	INLAND WETLAND DISTRICT	11-5

SECTION 1. PURPOSE AND AUTHORITY

1.1. TITLE

This Bylaw shall be known and may be cited as the "Zoning Bylaw of the Town of Arlington, Massachusetts," hereinafter referred to as "this Bylaw."

1.2. PURPOSES

This Bylaw is enacted in order to promote the general welfare of the Town of Arlington; to protect the health and safety of its inhabitants; to support the most appropriate use of land throughout the town, and to further the goals and policies of the Arlington Master Plan, and to preserve and increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of Chapter 808 of the Acts of 1975.¹

1.3. AUTHORITY

This Bylaw is enacted under the authority of Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts and in accordance with G.L. c 40A and any and all amendments thereto.

1.4. APPLICABILITY

All buildings or structures hereinafter erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, shall be in conformity with the provisions of these Bylaws. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

1.5. AMENDMENT

This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided for in G.L. c. 40A, Section 5.

¹ We recommend that you do surgery on your existing Section 1.03. The less you say here, the less you tie your hands ... Most of the purposes listed in Section 1.03 simply repeat Chapter 808 anyway.

1.6. SEVERABILITY

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

SECTION 2. DEFINITIONS

(This section has not been edited. The definitions are here so we can work on them. However, some definitions are highlighted because they need discussion.)

For the purpose of this Bylaw and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated herein. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the words "shall" is always mandatory and not merely directory.

Terms and words not defined herein but defined in the State Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary.

Abandonment: The cessation of a use as indicated by the visible or otherwise apparent intention of an owner to discontinue a use of a structure or lot; or the removal of the characteristic equipment or furnishing used in the performance of the use, without its replacement by similar equipment or furnishings; or the replacement of a nonconforming use or structure by a conforming use or structure.

Adult Uses: All those uses as described and defined in Massachusetts General Laws Chapter 40A, Section 9A, as amended.

Alteration: Any construction, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

Apartment House: A building designed or intended or used as the home or residence of four or more families, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways.

Arlington Redevelopment Board: The Arlington Redevelopment Board which was vested with the rights and powers of a planning board by the Massachusetts General Court in Chapter 783 of the Acts of 1971.

Artisanal Fabrication: Production of goods by the use of hand tools or small-scale, light mechanical equipment occurring solely within an enclosed building where such production requires no outdoor operations or storage, and where the production, operations, and storage of materials related to production occupy no more than 5,000 square feet of gross floor area. Typical uses have minimal negative impact on surrounding properties and include, but are not limited to, woodworking and cabinet

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts, production of alcohol, or food processing.

Artistic/Creative Production: Creation, production, manufacture, distribution, publishing, rehearsal, performance, broadcast, selling, or teaching of the visual arts, performing arts, applied arts, literature, heritage, media, music, information technology, communications media, or digital content & applications; or the invention, design, prototyping, or fabrication, assembly, and packaging of parts for further assembly or consumer goods for sale.

Assisted Living: A residential development subject to certification under G.L. Chapter 19D, which provides room and board; provides assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and collects payments or third party reimbursement from or on behalf of residents to pay for the provision of assistance.

Awning: A rooflike covering, as of canvas, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from rain or sun.

Basement: A portion of a building, partly below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four feet six inches or more above the average finished grade.

Bed and Breakfast: A dwelling in which lodging units are rented and breakfast is served to the people occupying the lodging units, and which has a resident owner or manager.

Bed and Breakfast Home: A bed and breakfast occupied and operated by the owner and in which no more than three lodging units are available for rent.

Boarding House; Boarding Home: A house in which a regular service of meals is furnished for persons for a remuneration.

Building: A combination of any materials, whether portable or fixed, having a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property. For purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building Step Back: Upper story building setback provided along all building elevations with street frontage, excluding alleys.

Building, Accessory: A building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building, or on an adjacent lot in the same ownership.

Building Area: The aggregate of the maximum horizontal cross sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies, and terraces.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Building, Attached: A building having any portion of one or more walls in common with adjoining buildings.

Building Coverage: The building area expressed as a percent of the total lot area.

Building, Detached: A building having open space on all sides.

Building, Setback Line: The line established by this Bylaw, beyond which a building shall not extend, except as specifically provided by this Bylaw.

Building, Nonconforming: A building, lawfully existing at the time of adoption of this Bylaw, or any subsequent amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the building is located.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Carport: A roofed structure, unenclosed on two or more sides, which may serve as a shelter for motor vehicles.

Catering: Provision of prepared food, and sometimes food presentation, service staff and equipment to an off-premises location.

Catering Service: Food preparation at an establishment whose principal use is restaurant or fast-order food establishment, in quantities in excess of individual meal offerings, intended for consumption at an off-premises site.

Cellar: A portion of a building, partly or entirely below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.

Certificate of Occupancy: A statement signed by the Inspector of Buildings, setting forth either that a building or structure complies with the Zoning Bylaw or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

Commercial Vehicle: Any truck, including but not limited to stepvans and cube vans, or bus, or a registered motor vehicle including but not limited to passenger car, pickup truck, or passenger van on which is affixed any writing or logo to designate the business or professional affiliation of said vehicle, or where tools of said business or professional affiliation are visibly stored on the exterior of the vehicle, or a recreational vehicle used in conjunction with a business. A pickup truck not used for commercial purposes and on which there is no writing or logo to designate a business or professional affiliation and which does not have tools visible on the outside shall not be considered a commercial vehicle for purposes of the bylaw.

Common Land: A parcel or parcels of open space in a Planned Unit Development, maintained and preserved for open uses, and designed and intended for the use or enjoyment of residents of the planned unit development, but not including parking areas or ways,

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

public or private. Common land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the planned unit development including walks, patios, benches, playground facilities, and terraced areas.

Conservation Land: A tract or patch of land reserved for the protection, development and promotion of natural resources and for the protection of watershed resources, as well as for use as open space or for passive outdoor recreation.

Court: An open, uncovered unoccupied space partially or wholly surrounded by the walls of a structure.

Court, Inner: A court surrounded on all sides by the exterior walls of a structure.

Court, Outer: A court having at least one side thereof opening onto a street, alley or yard or other permanent open space.

District: A zoning district as established by Article 3 of this Bylaw.

Dormitory: A dwelling, under the ownership or control of an educational, charitable or philanthropic organization which provides separate rooms or suites for the semipermanent occupancy of individuals or groups of up to four individuals per room, with common bath and toilet facilities and without individual cooking facilities.

Drive-In Food Service Establishment: A fast-order food establishment which provides convenient vehicular access and may provide service to customers while in their vehicles and any fast-order food establishment which provides a greater number of parking spaces than is required by this Bylaw.

Driveway: An open space, which may be paved located on a lot, which is not more than 20 feet in width built for access to a garage, or off-street parking or loading space.

Duplex House: A building containing two dwelling units joined side by side, sharing a common wall for all or substantially all of its height and depth; that is, in which no part of one dwelling unit is over any part of the other dwelling unit. A duplex shall be considered as one principal building occupying one lot for the purpose of determining yard requirements.

Dwelling: A privately or publicly owned permanent structure, whether owned by one or more persons or in condominium, or any other legal form which is occupied in whole or part as the home residence or sleeping place of one or more persons. The terms "one-family," "two-family," or "multi-family" dwelling shall not include hotel, lodging house, bed and breakfasts, bed and breakfast homes, hospital, membership club, mobile home, or dormitory.

Dwelling Unit: One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking, and sanitation.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Erected: The word erected shall include the words attached, built, constructed, reconstructed, altered, enlarged and moved.

Essential Services: Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety, or general welfare.

Family: An individual or two or more persons related within the second degree of kinship, or by marriage or adoption living together as a single housekeeping unit and including necessary domestic help such as nurses or servants and further including not more than three lodgers or roomers taken for hire. A group of individuals not related by blood or marriage, but living together as a single housekeeping unit, may constitute a family. For purposes of controlling residential density, each such group of four individuals shall constitute a single family.

Fast-Order Food Establishment: An establishment whose primary business is the sale of food for consumption on or off the premises which is (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; and (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Floodline: The limits of flooding from a particular body of water caused by a storm whose frequency or occurrence is once in a given number of years, as determined and certified by a registered professional engineer, qualified in drainage.

Floor Area Ratio: The ratio of the gross floor area to the total area of the lot.

Frontage: The front part of a building or lot abutting on a public or private way approved by the Town. Frontage shall be measured in a continuous line along the front lot line between the points at the intersections of the side lot lines with the front lot line.

Garage, Private: Any building or portion of a building, accessory to and located upon the same lot as a residential building or upon a lot in the same ownership and adjacent to the lot on which the served residential building is located, which is used for the keeping of a motor vehicle or motor vehicles and in which no business or industry dealing with sales, servicing, or repair of such vehicles is carried on.

Garage, Auto Repair: Any building used for the keeping of motor vehicles and in which a business or industry dealing with the repair or servicing of such vehicles is maintained, but not including body work or painting.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Garage, Public: Any building used for the keeping of motor vehicles in which a business dealing with the storage of such vehicles is maintained either for profit or public service. Such business shall not involve the repair or servicing of any motor vehicles.

***Gross Floor Area:** The sum of the gross horizontal areas of all the floors of a principal building and its accessory building or buildings on the same lot, including basements, as measured from the exterior faces of the exterior walls, or centerlines of walls separating two buildings, including:

- a. elevator shafts and stairwells on each floor,
- b. that part of attic space with headroom, measured from subfloor to the bottom of the roof joists, of seven feet three inches or more, except as excluded in (4), below;
- c. interior mezzanines, and penthouses;
- d. basements except as excluded in (2), below; and cellars in residential use;
- e. all weather habitable porches and balconies; and
- f. parking garages except as excluded in (1), below;

but excluding:

1. areas used for accessory parking garages, or off-street loading purposes;
2. that part of basements devoted exclusively to mechanical uses accessory to the operation of the building;
3. open or lattice enclosed exterior fire escapes;
4. attic space and other areas for elevator machinery or mechanical equipment accessory to the operation of the building; and
5. porches and balconies.

Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and does not exceed twenty feet in height.

Health Club: An establishment, operated for profit, providing space or facilities for physical exercise or for participating in sports activity.

Height of Building: The vertical distance of the highest point of the roof above the average grade of the curb line abutting the property. In the R0, R1 and R2 zoning districts where the lot has a slope in excess of 5 percent, the height is the vertical distance of the highest point of the roof above the average finished grade of the ground adjoining the building as computed before the building is actually erected. This definition excludes penthouses, bulkheads, and other allowable superstructures above the roof line.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Home Occupation: An accessory use which is carried on entirely within a dwelling unit, and is incidental and subordinate to the dwelling use. ~~In connection with such use, there is to be no retail sale of merchandise on the premises. Such use shall be carried on by the occupants of the dwelling unit in compliance with the provisions of Section 5.05 and shall not in any manner change the residential character of the building. Home occupations do not include such uses as barber shops, beauty parlors, commercial stables or kennels, real estate or insurance offices, teaching of more than three pupils simultaneously, and in the case of musical instruction, more than one pupil at a time.~~

Hospital: An institution certified by the American Hospital Association as an accredited hospital providing health services for in-patient and/or out-patient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, out-patient departments, central staff service facilities, and staff offices which are an integral part of the institution.

Hospital, Veterinary: A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

Hotel: A building or any part of a building containing rooming units without individual cooking facilities except for coffee makers, cook plates, and microwave ovens for transient occupancy and having a common entrance or entrances; and including an inn, motel, motor inn and tourist court, but not including a boarding house, lodging house or rooming house.

Inspector of Buildings: Inspector of Buildings, Arlington, Massachusetts.

Junk: Any worn out, castoff, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use.

Junk Yard: The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of any lot that joins any street, for the storage, keeping or abandonment of junk.

Loading Space: An off-street space at least 12 feet in width, 50 feet in length and with a vertical clearance of at least 14 feet, having an area of not less than 1,300 square feet which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Inspector of Buildings to not less than 300 square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.

Lodging Unit: One or more rooms for the semipermanent use of one, two or three individuals not living as a single housekeeping unit and not having cooking facilities. A "Lodging Unit" shall include rooms in boarding houses, bed and breakfasts, bed and breakfast homes, lodging houses, tourist homes or rooming houses. It shall not include

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

convalescent, nursing or rest homes; dormitories of charitable, educational or philanthropic institutions; or apartments or hotels.

Lot: An area or parcel of land or any part thereof, not including water area, in common ownership; designated on a plan filed with the Inspector of Buildings by its owner or owners as a separate lot and having boundaries identical with those recorded in the Middlesex County Registry of Deeds. A series of two or more attached and/or semi-detached dwellings may under certain conditions be considered to occupy a single lot regardless of ownership.

Lot, Corner: A lot at the junction of and abutting on two or more intersecting streets or ways, the interior angle or intersection of street lot lines or, in the case of a curved street, extended lot lines, being not more than 135 degrees.

Lot, Interior: A lot, the side lines of which do not abut on a street.

Lot Line, Front: The property line dividing a lot from a street right-of-way. For purposes of this definition, neither the Minuteman Bikeway nor any railroad right-of-way shall be deemed to be a street right-of-way.

Lot Line, Rear: Any lot line which is parallel to or within 45 degrees of being parallel to a front lot line, except for a lot line that is itself a front lot line, and except that in the case of a corner lot the owner shall have the option of choosing which of the two lot lines that are not front lot lines is to be considered a rear lot line. In the case of a lot having no street frontage or a lot of odd shape, only the one lot line furthest from any street shall be considered a rear lot line.

Lot Line, Side: Any lot line not a front or rear lot line.

Lot, Nonconforming: A lot lawfully existing at the effective date of this Bylaw, or any subsequent amendment thereto, which is not in accordance with all provisions of this Bylaw.

Lot, Through: A lot, the front and rear lot lines of which abut streets; or a corner lot, two opposite lines of which abut streets.

Marquee: A rigid surface canopy structure projecting from a building over an exterior entrance thereto and used as a shelter from rain or sun.

Medical Marijuana Treatment Center: A not-for-profit establishment registered with the Commonwealth, also known as a “registered marijuana dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes”

Membership Club: A social, sports, or fraternal association or organization which is used exclusively by members and their guests.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Mixed Use: A combination of two or more distinct land uses, such as commercial, lodging, research, cultural, artistic/creative production, artisanal fabrication, residential in a single multi-story structure to maximize space usage and promote a vibrant, pedestrian-oriented live-work environment.

Notice: Temporary signs erected by a person, a town committee, student organization or non-profit organization for the purpose of advertising an individual yard sale, non-commercial public event, or lost pet.

Office: A place in which functions such as directing, consulting, record keeping, clerical work, and sales (without the presence of merchandise) of a firm are carried on; also, a place in which a professional person conducts his professional business.

Open Space: A yard including sidewalks, swimming pools, terraced areas, patios, playcourts, and playground facilities; and not devoted to streets, driveways, off-street parking or loading spaces, or other paved areas.

Open Space, Landscaped: Open space designed and developed for pleasant appearance in trees, shrubs, ground covers and grass, including other landscaped elements such as natural features of the site, walks and terraces, and also including open areas accessible to and developed for the use of the occupants of the building located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes.

Open Space, Usable: The part or parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation including swimming pools, tennis courts or similar facilities, for garden or for household service activities such as clothes drying; which space is at least 75 percent open to the sky, free of automotive traffic and parking, and readily accessible by all those for whom it is required. Such space may include open area accessible to and developed for the use of the occupants of the building, and located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes. Open space shall be deemed usable only if: (1) at least 75 percent of the area has a grade of less than 8 percent and (2) no horizontal dimension is less than 25 feet.

Outdoor Storage Area: A space outside of a building which is used to keep merchandise for use, goods to be processed, or machinery for use.

Owner: The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure or lot in question.

Parking, Accessory: Parking developed to serve the residents, occupants, employees, patrons, or other users of a building or use, or developed to meet requirements specified in Article 8.

Penthouse: An enclosed structure above the roof of a building, other than a roof structure, extending not more than 12 feet above the roof and occupying not more than (33 1/3 percent of the roof area.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Planned Development: A development involving the construction of two or more principal buildings on the same lot for any permitted use.

Recreational Trailer or Vehicle: A vehicular, portable unit designed for travel, camping, or recreational use, including but not limited to the following:

- a. **Travel Trailer:** A vehicular, portable dwelling unit built on a chassis, being of 4,500 pounds, or being of any weight provided its overall length does not exceed 28 feet.
- b. **Pick-Up Camper:** A portable dwelling unit designed to be mounted on a pick-up truck or chassis, whether or not so mounted.
- c. **Motorized Camper:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- d. **Tent Trailer:** A folding structure, constructed of canvas, plastic or similar water repellant material, designed to be mounted on wheels to be used as a temporary dwelling.
- e. **Boat Trailer:** A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.

Rehabilitation Residence: For the purposes of this Bylaw, a building licensed or operated by the Commonwealth of Massachusetts as a Group Residence to provide residential care of alcoholic, drug or mental patients.

Repair: With respect to a building or structure, any construction which replaces materials and does not change the height, number of stories, size, use or location of a structure.

Research and Development Activities: Establishments used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include but not be limited to renewable or alternative energy research and development activities including the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing.

The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses.

Restaurant: An establishment where the principal activity is the service or sale of food or drink for on-premises consumption.

Rooming or Lodging House: A building containing four or more lodging units.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Service Station: A building or part thereof with no more than three service bays whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service, car washing services or auto repair limited to: tire servicing and repair, but not recapping or regrooving, replacement of miscellaneous parts and minor adjustments to parts or motor not involving removal of head, crankcase or racing motor.

Setback: The shortest horizontal distance from the front lot line to the nearest building wall or building part not specifically excluded by Section 6.19.

Shared Vehicle: A passenger vehicle, not to exceed 5,000 pounds gross vehicle weight rating, owned by a membership based entity which makes the vehicles available for rent by the hour or day to its members. Shared vehicles are parked at locations remote from the owner entity. Shared vehicles shall not display advertising other than accessory signage which shall not exceed four square feet in total.

Sign: Any permanent structure, device, letter, word, model, insignia, trade flag, streamer, display, emblem, or representation used as, or which is in the nature of, an advertisement, announcement, or direction. This definition shall include signs located within a window when illuminated. Marquees, canopies, clocks, thermometers and calendars shall be subject to the provisions when used in conjunction with signs as defined above.

A sign shall be painted, posted or otherwise securely affixed to a substantial intermediate removable surface and, except for free-standing signs, such surface shall be securely affixed to the face of the building front, which can be street or parking lot frontage, but shall be in a single, unbroken plane. The foregoing shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth of an inch. The material of the sign and intermediate surface and the manner of affixation of the sign to the intermediate surface and of the intermediate surface to the wall of the building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public .

Sign, Accessory: Any sign that, with respect to the premises on which it is erected, advertises or indicates one or more of the following: the person occupying the premises, the business transacted on the premises, and directional or parking instructions, or the sale or letting of the premises or any part thereof.

Sign Area, Area of a Sign, Signage: The entire area within a single continuous perimeter, and a single plane, composed of a square, circle or rectangle which encloses the extreme limits of the advertising message or announcement or wording together with any frame, background, trim or other integral part of the display excluding the necessary supports or uprights on which such sign is placed. Sign area of a standing or pole sign is the entire area of one side of such sign such that two faces which are back to back are counted only once for the purposes of standing or pole sign area.

Sign, Awning: A sign applied directly to or incorporated as part of an awning.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Sign, Brackett: A sign mounted perpendicular to the building by means of a bracket, the design of which is meant to be decorative and integral to the sign's design, below which hangs the sign in a manner to withstand public or property damage from wind.

Sign Canopy: Rooflike covering, as a canvas, on a frame that is affixed to a building projecting over a sidewalk portion of a way, and carried by a frame supported upon the ground or sidewalk.

Sign, Facing or Face: The surface of a sign board, background area, and structural trim upon, against or through which a message is displayed or illustrated on the sign.

Sign, Freestanding: A sign not a part of or attached to any building but generally located elsewhere on a lot.

Sign, Ground: A free-standing sign located on or close to the ground, the top of which shall not be higher than four feet above the ground.

Sign, Permanent: Any sign as defined above, intended to be erected and maintained for more than 60 days.

Sign, Portable: A free-standing sign not permanently affixed, anchored, or secured to the ground or a structure on the lot it occupies, including trailered signs but excluding signs affixed to or painted on a vehicle.

Sign, Projecting: Any sign which is attached to a building or other structure and any part of which projects more than 12 inches from the wall surface of that portion of the building or structure in front of which the sign is positioned

Sign, Roof: Any sign erected, constructed and maintained upon or over the roof of any building.

Sign, Standing or Pole: A free-standing sign not exceeding 15 feet in height with eight feet of clearance under the sign area and erected upon supporting devices or stands.

Sign, Temporary: Any sign, including its supporting structure intended to be maintained for a continuous period not to exceed 60 days.

Sign, Wall: A sign not exceeding four feet in height securely affixed to a wall projecting no more than 12 inches from and parallel to the face of such wall, not projecting beyond the building face fronting on a street or parking lot nor above the highest line of the building to which it is attached. A wall sign shall be no higher than the lowest of the following: (a) 25 feet above grade; (b) the bottom of the sills of the first level of windows above the first story; or (c) the cornice line of the building at the building line. If attached to a parapet, a sign shall not exceed the height of the parapet.

Sign, Primary Wall: A sign on the building face fronting on a street or parking lot frontage.

Sign, Secondary Wall: A sign located on any building face fronting on a street or parking lot frontage other than that of the primary wall sign. The cumulative area of all secondary

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

wall signs shall not exceed 50 percent of the maximum possible area of the primary wall sign.

Signs, Window: Signs intended to be viewed from the exterior that are painted or posted on an interior transparent or translucent surface including windows and doors, or interior to and within 12 inches of such a surface. The area of a window sign shall not exceed 25 percent of the area visible from the exterior of the building.

Special Permit: A use of a structure or lot or any action upon a premises which may be permitted under this Bylaw only upon application to and the approval of the Board and in accordance with provisions of Article 10.

Special Permit Granting Authority: The Zoning Board of Appeals, or in the case of a special permit which qualifies for Environmental Design Review under Section 11.06 of the Zoning Bylaw, the Arlington Redevelopment Board.

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is four feet six inches or more above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and not used for human occupancy.

***Story, Half:** A story which is under a gable, hipped, or gambrel roof, where less than one half the floor area has a clear height of seven feet three inches or more.

***Street:** A public or private way which is 27 or more feet in right-of-way width which is accepted or devoted to public use by legal mapping or by any other lawful procedure. It shall be synonymous with the word road, avenue, highway, and parkway, and other similar designations.

Structure: A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, trestle, wireless communications facility, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelters, piers, wharves, bin, fence, sign, or the like.

Three-Family Dwelling: A house containing three dwelling units.

Town House Structure: A row of at least three one-family attached dwelling units whose sidewalls are separated from other dwelling units by a fire wall or walls. Each unit in the row, or town house, may be owned by a separate owner and shall have its own at grade access.

Trailer: Any vehicle which is immediately portable, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which persons may congregate, including a mobile home, house trailer or camper. A trailer, whether immediately

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

portable or no longer immediately portable by virtue of having its wheels removed or skirts attached, shall not be considered a building for the purposes of this Bylaw.

Two-Family Dwelling: A house containing two dwelling units, in which part of one dwelling unit is over part of the other dwelling unit. (See Duplex House.)

Use: The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

Use, Accessory: A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure use.

Use, Nonconforming: A use lawfully existing at the time of adoption of this Bylaw or any subsequent amendment thereto which does not conform to one or more provisions of this Bylaw.

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this Bylaw.

Use, Substantially Different: A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

Variance: Such departure from the terms of this Bylaw as the ZBA, upon appeal in specific cases, is empowered to authorize under the terms of Article 10.

Wireless Communications Facility: An assemblage of equipment intended to receive and/or transmit radio waves for the purpose of providing wireless communications consisting of, but not limited to, antennas and mounting brackets, antenna support structures, electrical equipment in cabinets or enclosed shelters or in other enclosed space, coaxial cables and back-up power equipment or generators.

Yard: An open space unobstructed from the ground up, on the same lot with a principal building, extending along a lot line or front lot line and inward to the principal building. The size of a required yard shall be measured as the shortest distance between the line of the building wall or building part not specifically excluded by Section 6.19 and a lot line. Structures which are below the finished lot grade, including shelters for nuclear fallout shall not be deemed to occupy required yards.

***Yard, Front:** A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

Yard, Rear: A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the nearest building wall and the rear lot line.

Yard, Side: A yard unoccupied, except by an accessory structure or use as herein permitted, between the line of the building wall and a side lot line extending from the front yard

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

Zoning Board of Appeal: The Zoning Board of Appeals of the Town of Arlington, Massachusetts ("Board of Appeals").

SECTION 3. ADMINISTRATION

3.1. ENFORCEMENT, VIOLATIONS, AND PENALTIES

- A. The Building Inspector appointed under the provisions of G.L. c. 143 is hereby designated and authorized as the officer charged with the interpretation and enforcement of this Bylaw.
- B. No person shall erect, construct, reconstruct, convert, or alter a structure, or change the use, increase the intensity of use, or extend or displace the use of any structure or lot without applying for and receiving the required permit(s) from the Building Inspector.
- C. No premises, and no building erected, altered, or in any way changed as to construction or use under a permit or otherwise, shall be occupied or used without a certificate of occupancy issued by the Building Inspector. Such permit shall not be issued until the premises, structure, and its uses and accessory uses comply in all respects with this Bylaw, and if applicable, a site plan certificate of completion shall be issued.
- D. Enforcement.
 - 1. Any person may file a written request to the Building Inspector for enforcement of this Bylaw with reference to an alleged violation. If upon investigation and inspection the Building Inspector finds evidence of a violation, he shall give written notice to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Inspector deems reasonable. Such notice and demand may be given by mail, addressed to the owner at his address as it then appears on the records of the Board of Assessors, and to the occupant at the address of the premises.
 - 2. If after notice and demand the violation has not been abated within the time set by the Building Inspector, he shall institute appropriate action or proceedings in the name of the Town of Arlington to prevent, correct, restrain, or abate such violation of this Bylaw.
 - 3. If the Building Inspector determines that there is no violation, he shall give written notice of his decision to the complaining person within 14 days after the receipt of such request.
- E. Appeal. An appeal to the Board of Appeals may be taken by any person aggrieved by reason of inability to obtain a permit or enforcement action from the Building Inspector, as provided in G.L. c. 40A, § 8, as amended.
- F. Penalty.
 - 1. If the notice of violation is not complied with according to the time specified in the notice, the Building Inspector may, in accordance with G.L. c. 40, Section 21D, institute a non-criminal complaint(s). Each day in which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this Bylaw

shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.²

2. The Inspector of Buildings may also, with the approval of the Board of Selectmen, institute the appropriate criminal action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed \$300.00 for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.

3.2. ZONING BOARD OF APPEALS³

3.2.1. Establishment.

There shall be a Zoning Board of Appeals (“Board of Appeals”) consisting of five members and two associate members appointed by the Board of Selectmen. All members of the Board shall be residents of the Town of Arlington, one member shall be an attorney-at-law, and at least one of the remaining members shall be a registered architect or a registered professional engineer. The appointment, service, and removal or replacement of members and associate members and other actions of the Board of Appeals shall be as provided for in G.L. c. 40A.

3.2.2. Powers.

The Board of Appeals shall have the following powers:

- A. To hear and decide appeals in accordance with G.L. c. 40A, § 8, as amended.
- B. To hear and decide, in accordance with the provisions of G.L. c. 40A, § 9, applications for special permits when designated as the special permit granting authority herein.
- C. To hear and decide, in accordance with the provisions of G.L. c. 40A, § 6, applications for special permits to change, alter, or extend lawfully pre-existing non-conforming uses and structures to the extent allowed by Section 5.5.
- D. To hear and decide petitions for variances in accordance with G.L. c. 40A, § 10.
- E. To hear and decide applications for comprehensive permits for construction of low or moderate income housing, as set forth in G.L. c. 40B, §§ 20-23.

3.2.3. Rules and Regulations

The Board of Appeals shall adopt rules and regulations for the administration of its powers and shall file a copy of such regulations with the Town Clerk. The Board’s regulations shall include rules for hiring outside consultants in accordance with G.L. c. 44, § 53G.

² Should these fines be reviewed?

³ This section has been significantly abbreviated. Much of the content in Arlington’s existing ZBL simply repeats Chapter 40A. It is unnecessary text.

3.2.4. Fees

The Board of Appeals may adopt reasonable administrative fees and fees for employing outside consultants to assist the Board with its review of special permits, variances, administrative appeals, and applications for comprehensive permits in accordance with its regulations.

3.2.5. Repetitive Petitions

No appeal, petition for a variance from the terms of this Bylaw, or special permit that has been denied by the Board of Appeals shall be considered again on its merits within two years after the date of the denial action except with the consent of all but one of the members of the Arlington Redevelopment Board.

3.3. SPECIAL PERMITS

3.3.1. Special Permit Granting Authority

In this Bylaw, the Board of Appeals and Arlington Redevelopment Authority have the power to grant special permits. The appropriate special permit granting authority is specifically designated where applicable.

3.3.2. Procedures

- A. Application for a special permit shall be filed in accordance with the rules and regulations of the special permit granting authority and G.L. c. 40A.⁴
- B. Public Hearing. The special permit granting authority shall hold a public hearing within 65 days of receipt of a special permit application, and shall issue a decision no later than 90 days from the date of the public hearing. Notification requirements for a public hearing shall be in accordance with G.L. c. 40A, § 11.

3.3.3. Decision Criteria

Unless otherwise specified herein, special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include findings that all of the following criteria for granting a special permit are met:⁵

- A. The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this Bylaw.
- B. The requested use is essential or desirable to the public convenience or welfare.

⁴ Submission requirements should not be in the ZBL. They belong in the board's administrative rules and regulations.

⁵ All of the decision criteria match what is in Arlington's existing ZBL.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- C. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
- D. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
- E. Any special regulations for the use as may be provided in Section 9 are fulfilled.
- F. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.
- G. The requested use will not, by its addition to a neighborhood, cause an excess of the use that could be detrimental to the character of said neighborhood.⁶

3.3.4. Special Permit Conditions

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this Bylaw. Such conditions may include but shall not be limited to the following:⁷

- A. Dimensional standards more restrictive than those set forth in Section 7 of this Bylaw;
- B. Screening buffers or planting strips, fences, or walls;
- C. Modification of the exterior appearance of the structures;
- D. Limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities;
- E. Limitations on signage, noise, or hours of operation of construction equipment;
- F. Regulation of number and location of driveways, or other traffic features;
- G. Off-street parking or loading or other special features beyond the minimum required by this Bylaw;
- H. Deadline to commence construction;
- I. Requirements pertaining to integrated emergency or alarm systems, maintenance, landscaping, dust control, bond or other performance guarantee;

⁶ How is this determined?

⁷ We've taken the liberty of adding some conditions here that are pretty standard in other ZBLs. Our additions are highlighted.

- J. Requirements for independent monitoring, at the expense of the applicant, and reporting to the Building Inspector, if necessary to ensure continuing compliance with the conditions of a special permit or of this Bylaw;
- K. Term for years with or without automatic renewals, to the extent allowed by law;
- L. Other limitations as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the proposed use, structure or activity with, the surrounding area.

3.3.5. Recording; Lapse

- A. Special permits shall not take effect until recorded with the Middlesex South Registry of Deeds or Registry District of the Land Court, as applicable, as provided in G.L. c. 40A, § 11. Proof of recording shall be presented to the Building Inspector.
- B. Special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause.

3.4. ENVIRONMENTAL DESIGN REVIEW

3.4.1. Purposes

The purpose of this section is to provide individual detailed review of certain uses and structures that have a substantial impact on the character of the Town and on traffic, utilities, and property values, thereby affecting the public health, safety and general welfare. The environmental design review process is intended to promote the purposes in Section 1 of this Bylaw.

3.4.2. Applicability

In any instance where a new structure, or a new outdoor use, or an exterior addition or a change in use (a) requires a building permit and a special permit in accordance with the Table of Uses (Table 2), or (b) alters the façade in a manner that affects the architectural integrity of the structure,⁸ and c) is one of the uses listed below, a special permit shall be acted upon by the Arlington Redevelopment Board in accordance with the environmental design review procedures and standards of this Section 3.4.

- A. Construction or reconstruction on a site abutting any of the following: Massachusetts Avenue, Pleasant Street, Mystic and Medford Streets between Massachusetts Avenue and Chestnut Street, Broadway, or the Minuteman Bikeway.

⁸ How is this determined, and by whom?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- B. Six or more dwelling units on the premises, whether contained in one or more structures or on one or more contiguous lots, constructed within a two-year period.
- C. Gasoline service stations.
- D. Lodging house, bed and breakfast, or bed and breakfast home⁹ with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.
- E. Nonresidential uses and hotels or motels in a nonresidential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces.
- F. Nonresidential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.
- G. Outdoor uses.
- H. Temporary, seasonal signage in accordance with an overall signage plan at a fenced athletic field with one or more permanent structures to seat more than 300 persons, which signage may be in effect between March 15 and December 15 of any calendar year.
- I. Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District.
- J. Parking in the Open Space District.
- K. Medical Marijuana Treatment Center.

3.4.3. Procedures

- A. Application. Applicants shall submit an application for Environmental Design Review in accordance with the Arlington Redevelopment Board's rules and regulations.
- B. The Board shall hold a public hearing in accordance with Section 3.3 of this Bylaw and G.L. c. 40A, §§ 9 and 11.
- C. The Board shall refer the application to the Department of Planning and Community Development ("Department"), which shall prepare and submit written reports with recommendations to the Board before or at the public hearing. The Board shall not take final action on the special permit application until it has received the Department's report or until 35 days¹⁰ have elapsed after submittal of the proposal to the Department. Failure of the Department to submit written reports or to give an oral report at the public hearing shall not invalidate action by the Board.
- D. A favorable decision by the Board shall require the votes of at least four members.

⁹ Delete "rehabilitation residence." As a use serving people with disabilities, it is exempt under G.L. c. 40A, § 3.

¹⁰ 35 days in the statute, not 30 days.

- E. The Board shall not deny a special permit under this Section 3.4 unless it finds that the proposed use does not comply with the Environmental Design Review Standards listed below to such a degree that such use would result in a substantial adverse impact upon the character of the neighborhood or the town, and upon traffic, utilities, and public or private investments, thereby conflicting with the purposes of this Bylaw.

3.4.4. Environmental Design Review Standards¹¹

The following standards shall be utilized by the Board and the Department in reviewing site and building plans. The standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the reviewing authority. They shall not be regarded as inflexible requirements and they are not intended to discourage creativity, invention, and innovation.

The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in subsections A through K below shall also apply to all accessory buildings, structures, free-standing signs and other site features, however related to the major buildings or structures.

- A. Preservation of Landscape. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- B. Relation of Buildings to Environment. Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. The Arlington Redevelopment Board may require a modification in massing so as to reduce the effect of shadows on abutting property in an R0, R1 or R2 district or on public open space.
- C. Open Space. All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance.
- D. Circulation. With respect to vehicular, pedestrian and bicycle circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of vehicle parking and bicycle parking areas, including bicycle parking spaces required by Section 8.1 that are safe and convenient and, insofar as

¹¹ Other than some light editing, the Standards here are as written in the existing ZBL. However, we have this note from Laura: "Many of these criteria are still good, and a few can go. But the descriptions of the criteria are outdated and too specific, and may not reflect what we would look for today. They need to be more general." We can modify the standards, but we need some direction from the Town.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

- E. Surface Water Drainage. Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Available Best Management Practices for the site should be employed, and include site planning to minimize impervious surface and reduce clearing and re-grading. Best Management Practices may include erosion control and stormwater treatment by means of swales, filters, plantings, roof gardens, native vegetation, and leaching catch basins. Stormwater should be treated at least minimally on the development site; that which cannot be handled on site shall be removed from all roofs, canopies, paved and pooling areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

After consultation with the Director of Public Works, the Board may require security satisfactory to the Board to ensure the maintenance of all stormwater facilities such as catch basins, leaching catch basins, detention basins, swales, and so forth within the site. The Board may use funds provided by such security to conduct maintenance that the applicant fails to do.

The Board may adjust in its sole discretion the amount and type of financial security such that it is satisfied that the amount is sufficient to provide for the future maintenance needs.

- F. Utility & Disposal Services. Electric, telephone, cable television, and other such lines and equipment shall be underground. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.
- G. Advertising Features. The size, location, design, color, texture, lighting, and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.
- H. Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- I. Safety. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be so designed as to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.
- J. Heritage. With respect to Arlington's heritage, removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- K. Microclimate. With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage, or the installation of machinery which emits heat, vapor, or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on noise and temperature levels of the immediate environment.
- L. Sustainable Building and Site Design. Projects are encouraged to incorporate best practices related to sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. Applicants must submit a current Green Building Council Leadership in Energy and Environmental Design (LEED®) checklist, appropriate to the type of development, annotated with narrative description, that indicates how the LEED® performance objectives will be incorporated into the project.¹²

¹² Do you want to retain these references to LEED?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

SECTION 5. ESTABLISHMENT OF DISTRICTS

5.1. DISTRICTS

For purposes of this Bylaw, the Town of Arlington is divided into the following districts:

5.1.1. Use Districts

A. Residential

1. Residence 0 (R0)
2. Residence 1 (R1)
3. Residence 2 (R2)
4. Residence 3 (R3)
5. Residence 4 (R4)
6. Residence 5 (R5)
7. Residence 6 (R6)
8. Residence 7 (R7)

B. Business

1. Business 1 (B1)
2. Business 2 (B2)
3. Business 2A (B2A)
4. Business 3 (B3)
5. Business 4 (B4)
6. Business 5 (B5)

C. Industrial

Industrial (I)

D. Special Districts

1. Multi-Use (MU)
2. Planned Unit Development (PUD)
3. Transportation (T)

4. Open Space (OS)

5.1.2. Overlay Districts

Wetlands and Floodplain Overlay District

5.1.3. District Purposes

- A. R0 is a large lot Single-Family District with the lowest residential density of all districts and is generally served by local streets only.
- B. R1 is a Single-Family District in which the predominant uses are single-family dwellings and public land and buildings.
- C. R2 is a Two-Family District. The predominant use is a two-family dwelling and the district is generally served by local streets only. This district is generally within walking distance of goods and services on Massachusetts Avenue and Broadway.
- D. R3 is a Three-Family District with locations along Massachusetts Avenue and Broadway. It is intended primarily for three-family dwellings and no business uses.
- E. R4, the Town House District, is located along arterials or in the Arlington Center area. The predominant uses are one- and two-family dwellings in large, older houses. Conversions of these old homes to apartments or offices is allowed to encourage their preservation.¹³ Town house construction is permitted at the same density as the apartment conversions, and at a scale in keeping with the older houses.
- F. R5 is a Low-Density Apartment District intended primarily for two- to three-story garden apartments located along or near principal arteries. Small-scale offices would be allowed on principal arteries only.
- G. R6 is a Medium Density Apartment District located primarily on portions of Massachusetts Avenue and Pleasant Street. The predominant uses are apartments up to four stories high and offices at a smaller scale.
- H. R7 is a High Density Apartment District with apartments up to 5 stories high and offices at the same scale. Locations are principally within or adjacent to Arlington center.
- I. B1 - Neighborhood Office District. The Neighborhood Office District is composed of all those areas so designated on the official zoning map. Predominant uses include one- and two-family residences, houses with offices on the ground floor, or office structures which are in keeping with the scale of adjacent houses. With most locations on or adjacent to Massachusetts Avenue, the district is intended to encourage preservation of small-scale structures to provide contrast and set off the higher density, more active areas along the Avenue. Uses which would detract from the desired low level of activity, consume large

¹³ Note from Laura: "This is interesting. I don't know that it has accomplished this. We should allow this in all residential zones." Response from Judi: Agreed!

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

amounts of land, or otherwise interfere with the intent of this bylaw, are discouraged. Mixed-use structures without retail space are allowed in this district.

- J. B2 - Neighborhood Business District The Neighborhood Business District is composed of all those areas so designated on the official zoning map. Predominant uses include small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. Locations are almost all along Massachusetts Avenue or Broadway. Uses which would detract from this small-scale business character, or otherwise interfere with the intent of this bylaw are discouraged. Mixed-use structures are allowed in this district.
- K. B2A - Major Business District The major Business District is composed of all those areas so designated on the official zoning map. Located along Massachusetts Avenue, Mill Street, Summer Street and Broadway, these areas generally contain uses that are retail and service to serve the needs of a large neighborhood area. Customers generally arrive by car so there is ample parking to serve the retailer. Housing is also permitted at a medium density due to the proximity of the zone to residential uses. Mixed-use structures are allowed in this district. Automotive uses; some office uses, wholesale business and storage uses are prohibited.
- L. B3 - Village Business District The Village Business District is composed of all those areas so designated on the official zoning map. Predominant uses include retail, service and office establishments catering to both convenience and comparison-goods shoppers and oriented to pedestrian traffic. Mixed-use structures are allowed and encouraged in this district. The three locations include portions of the principal business areas of Arlington: Lake Street, Arlington Center, and Arlington Heights. Businesses which consume large amounts of land and activities which interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged.
- M. B4 - The Vehicular Oriented Business District is composed of all those areas so designated on the official zoning map. Uses include establishments primarily oriented to automotive traffic which require large amounts of land in proportion to building coverage; or establishments devoted to the sale or servicing of motor vehicles, the sale of vehicular parts and accessories, and service stations. Arlington has an overabundance of automotive and automotive accessory sales and service establishments; thus when one of these businesses closes, the conversion of the property to other retail, service, office or residential use is encouraged, particularly as part of mixed-use development, which is allowed in this district.
- N. B5 - Central Business District The Central Business District is composed of all those areas so designated on the official zoning map in Arlington Center. It includes retail, service, and office uses, and provides for large-scale development. The scale is intended to reinforce the Center's role as the focus of activity in Arlington. Mixed-use development is encouraged, such as the combining of residential and business uses. Activities shall be oriented to pedestrian traffic and to centralized parking. Businesses which consume large amounts of land and interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- O. MU-Multi-Use The Multi-Use District is composed of all those areas so designated on the official zoning map. Districts must contain at least one acre. The district allows larger scale development only when controlled by the Arlington Redevelopment Board through urban renewal plans and Environmental Design Review.
- P. I - Industrial District The Industrial District is composed of all those areas so designated on the official zoning map. These areas in the Mill Brook Valley allow uses requiring the manufacture, assembly, processing or handling of materials which because of their traffic, noise, appearance, odor, or hazards would be disruptive to residential and other business uses. Residential uses, retail business uses, or uses which would otherwise interfere with the intent of this bylaw are discouraged. Mixed-use development is allowed in this district, without residential space.
- Q. T - Transportation District The Transportation District is composed of all those areas designated on the official zoning map. Principal uses are bus terminals, open space uses, and the Minuteman Bikeway. Uses in conflict with these allowed uses or which otherwise interfere with the intent of this bylaw are prohibited.
- R. PUD - Planned Unit Development District The Planned Unit Development District is composed of that area so designated on the official zoning map. Large scale, multi-use development is permitted upon approval of a development plan and the assembly of a large amount of land.
- S. OS – Open Space District The Open Space District is composed of all those areas so designated on the official zoning map. The Open Space District is composed of parcels under the jurisdiction of Park and Recreation Commission, the Conservation Commission, the ARB, the MDC, or the MBTA. Structures where present are clearly accessory to the principle function of the property.

5.2. ZONING MAP

Zoning districts are shown on a map entitled "Zoning Map of the Town of Arlington" (the Zoning Map) on file in the Office of the Town Clerk and the Planning Board. The district boundaries shown on the Zoning Map, including an overlay map entitled "Wetland and Floodplain Overlay" are part of this bylaw. Changes to the Zoning District boundaries are made the same way as amendments to the text of the Zoning Bylaw are made. The Zoning Map may include geographical features, streets, notations, and such other information to keep the map current and to facilitate orientation.

5.2.1. Interpretation of District Boundaries

The location of the boundary lines of districts shown upon the Zoning Map shall be determined as follows:¹⁴

¹⁴ Text in this section is exactly as it appears in the existing ZBL.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- A. Where a boundary is indicated as a street, alley, railroad, rapid transit right-of-way, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a Town boundary, then to the limits of the Town boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street, railroad, rapid transit right-of-way, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.
- C. Where a dimensioned boundary or the actual property boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.
- D. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, and unless it is otherwise indicated, it shall be construed to intersect at right angles to said centerline or, in the case of a curved centerline, to the tangent to the curve at the point of intersection.
- E. The abbreviation "PL" means property line as shown on the Town Assessor's Map as in effect at the effective date of this Bylaw. The abbreviation "PL," when used in conjunction with a subsequent amendment to this Bylaw, shall mean a property line as shown on the Town Assessor's Map as in effect at the effective date of such amendment.
- F. The abbreviation "CL" means "Centerline" and "CI" means "Center of Intersection."
- G. Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the Inspector of Buildings, provided, however, that any person aggrieved by his decision may appeal to the ZBA.

SECTION 6. USE REGULATIONS

6.1. GENERAL PROVISIONS

No building or structure shall be erected and no building or structure, or land or water area shall be used for any purpose or in any manner except in accordance with this Bylaw.

6.2. ACCESSORY USES

An accessory use shall not alter the character of the premises on which it is located or have an adverse impact on the surrounding area.

6.3. PERMITTED IN ALL DISTRICTS¹⁵

The following uses are permitted in all districts:

- A. Federal government use
- B. State government uses to the extent that this Bylaw would prohibit the exercise of an essential government function.
- C. Uses to the extent protected or exempt pursuant to G.L. c. 40A, Section 3 or other state law.

6.4. PROHIBITED USES

Any use not listed in Section 5.5, Table of Uses (Table 1), or otherwise allowable under the provisions of this Bylaw is prohibited.

All uses that pose a present or potential hazard to human health, safety, welfare, or the environment through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare, are expressly prohibited in all zoning districts.

6.5. TABLE OF USES

Table 1 Legend:

Y: A use permitted by right

N: A prohibited use

SP: A use that may be allowed by special permit

¹⁵ Having a section like this obviates the need to list exempt uses in the Table of Uses.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

SECTION 7. NONCONFORMING USES AND STRUCTURES¹⁶

General Comment: we have tried to reorganize Article 9 without substantially disturbing your existing policies. The existing ZBL hops back and forth between nonconforming uses and nonconforming structures, which is confusing, so we have tried to address that problem. Knowing how critical the section on nonconforming uses and structures is in every bylaw or ordinance, we urge you to read this draft Section 6 carefully and to compare it, as needed to your existing Article 9.

7.1. APPLICABILITY

Except as provided in this Section, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw or any subsequent amendments to it. However, this Bylaw shall apply to any change or substantial extension of such use, or to a building permit or special permit issued after the first notice of said public hearing, or to any reconstruction, extension, or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction, extension, or a structural change to a one-family or two-family residential structure does not increase the nonconforming nature of said structure. It is the purpose of this Bylaw to discourage the perpetuity of nonconforming uses and structures whenever possible.

Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

7.2. NONCONFORMING USES

- A. Any nonconforming use, except for agriculture, horticulture, or floriculture, of any open space on a lot outside a structure, or of a lot not occupied by a structure, shall not be extended.
- B. Any nonconforming principal use of a structure shall not be extended. However, any nonconforming use of structure may be changed to another nonconforming use by special

¹⁶ We have deleted Section 9.03, Residential Lot of Record, because it simply repeats the statute and does not need to be in the ZBL. It reads: "Any lot lawfully laid out by plan or deed duly recorded which complies (at the time of recording) with the minimum area, frontage, width, and depth requirements, if any, of the zoning bylaw then in effect, may be built upon for residential use provided it has a minimum area of 5,000 square feet and a minimum frontage of 50 feet, and is otherwise in accordance with the provisions of the fourth paragraph of M.G.L. c. 40A, § 6, the Zoning Act." We can restore it if you wish, but we do not recommend it.

permit provided the Board of Appeals finds that the new use is not a substantially different use and not more detrimental to the neighborhood than the existing use.

- C. Any nonconforming accessory use of a portion of a structure or any conforming accessory use of a portion of a nonconforming structure may be extended up to a maximum of 40 percent of the floor area of the existing structure.¹⁷
- D. Any nonconforming use which has been once changed to a permitted use shall not again be changed to another nonconforming use.

7.3. NONCONFORMING STRUCTURES

7.3.1. Nonconforming Single-Family or Two-Family Dwellings

- A. A single or two-family nonconforming residential structure may be altered and the conforming use extended throughout the altered portion provided that the resulting alteration does not increase the nonconforming nature of the structure. An alteration that is completely within the existing foundation walls shall be deemed not to increase the nonconforming nature of the structure.¹⁸
- B. The extension of an exterior wall of a single or two-family residential structure along a line at the same nonconforming distance within a required setback may be allowed providing the extension does not create any new nonconformities or increase any open space nonconformities, and that no such extension shall be permitted unless there is a finding by the Board of Appeals that the extension shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. In making such a finding, the Board shall assess the dimensions and proposed setback of the alteration in relationship to abutting structures and uses.

7.3.2. Nonconforming Structures Other Than Single-Family or Two-Family Dwellings

Except as provided in Section 6.2.3, the following shall apply to nonconforming structures other than single-family or two-family dwellings.

- A. Any nonconforming structure may be altered and the conforming use extended throughout the altered portion, provided that any resulting alteration shall not cause the structure to further violate the dimensional and density regulations of the district in which it is located.
- B. No building area or floor area, where already nonconforming, shall be increased so as to create a greater non-conformity.¹⁹

¹⁷ These paragraphs are from existing How have these sections worked for the Town? Do they need to be revised?

¹⁸ Laura notes that this language has been controversial because it allows reconstruction within the existing footprint of a taller building without a special permit. The Town may impose more limits on the “by right” allowable extent of single-family alteration and reconstruction; it’s a policy issue. We have not changed the language because we understand there’s a separate committee working on proposed changes to the Bylaw.

¹⁹ Existing 9.04(b).

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- C. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.
- D. Any nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of the structure, the use thereof, and the lot shall be conforming.²⁰
- E. Except as covered under Sections X.XX [9.06] and X.XX [9.07], any structure determined to be unsafe may be restored to a safe condition, provided the work on any nonconforming structure shall be completed within one year of the determination that the structure is unsafe and the restoration work shall not place the structure in greater nonconformity. A structure may be exempted from this provision by a special permit granted by the Board of Appeals or, in cases subject to Environmental Design Review in Section X.XX, the ARB.²¹

7.3.3. Special Permit Uses; Repair, Reconstruction, Extension, or Alteration Involving a Non-Conforming Structure or Lot²²

Whenever a nonconforming structure or lot is occupied by a use that would require a special permit pursuant to X.XX and²³ X.XX²⁴ if such activity were to commence as a new use, then any reconstruction, alteration, addition, or extension of such use or of an existing or destroyed structure shall be undertaken only pursuant to special permit(s) issued therefor, except:

- A. A damaged or unsafe structure occupied by a use that exists under previously granted special permit(s) may be repaired or reconstructed for that use in accordance with the same terms and conditions, if any, of the special permit(s).
- B. A damaged or unsafe structure occupied by a use that is not under previously granted special permit(s) may be repaired or reconstructed for that use only, provided that the cost of such repair or construction does not exceed 50 percent of the physical replacement value of the previously existing structure(s).
- C. Interior renovations shall not increase the gross floor area of the existing structure(s).
- D. A structure occupied by a use that exists under previously granted special permit(s) may be reconstructed, altered, or expanded provided that any addition does not exceed the lesser of 500 square feet or 25 percent of the gross floor area of the existing structure and that no reconstruction, alteration, or addition violates any condition(s) attached to the special permit for the use.

²⁰ Existing 9.08.

²¹ Existing 9.09.

²² This needs careful review. It is substantially from existing 9.10, though we have tried to edit it to make it less wordy/easier to read. We found Sec. 9.10 very difficult to understand.

²³ And, or or?

²⁴ These refer to existing Sec. 5.04 and 11.06.

None of the above-listed exceptions shall exempt any construction under this section from compliance with all dimensional, density, parking, landscaping, or other provisions of this Bylaw.

7.4. REDUCTION OR INCREASE

- A. Any lot, or open space on a lot, including yards and setbacks shall not be reduced or changed in area or shape so that the lot, open space, yard, or setback is made nonconforming or more nonconforming unless the special permit granting authority has permitted an alteration to the property pursuant to Section X.XX.²⁵ This section, however, shall not apply in the case of a lot a portion of which is taken for a public purpose.
- B. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.²⁶
- C. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

7.5. RESTORATION, ABANDONMENT, OR NON-USE

- A. Any nonconforming structure or any structure occupied by a nonconforming use, which is damaged by fire or other natural cause, may be repaired or rebuilt according to the dimensions and floor area limitations of the original structure and used for its original use or a conforming use. If such restoration is not started within one year of the cause of the damage, the repaired structure shall not be used except for a conforming use.
- B. Any nonconforming use or structure which has been abandoned, demolished without reconstruction, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Bylaw; however, the Board of Appeals may grant a special permit to authorize the reestablishment of a nonconforming use or structure where such reestablishment shall not result in substantial detriment to the neighborhood.²⁷

A nonconforming use shall be considered abandoned when the premises have been devoted to another use, or when the characteristic equipment and the furnishing of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within two years unless other facts show intention to resume the nonconforming use.

²⁵ Reference is existing 9.02(d).

²⁶ Section 9.05(c)

²⁷ Existing zoning also provides: "For agriculture, horticulture or floriculture, the abandonment period shall be five years."
Retain?

SECTION 8. DIMENSIONAL AND DENSITY REGULATIONS

This section closely tracks Arlington's existing Section

8.1. TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

Each use, building, or structure shall comply with the standards described in Table 2, Schedule of Dimensional and Density Regulations and further provisions of this Section 7, except where otherwise provided in this Bylaw.

8.2. GENERAL REGULATIONS

8.2.1. Reduction of Lot Areas and Separation of Lots

A. The minimum lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this Bylaw, nor may these areas include any property the ownership of which has been transferred after the effective date of this Bylaw if such property was part of the area required to comply with the dimensional regulations that applied to the lot from which the transfer was made.

B. Lots shall not be separated or transferred in ownership so as not to comply with this Bylaw.

8.2.2. Setback from Open Stream²⁸

Except for a retaining wall, wharf, fence, or bridge, all buildings or structures shall be set back at least 15 feet from the embankment of any open stream; however, for construction in accordance with special permits issued under Section X.XX in the Flood Plain District or Section X.XX in the Inland Wetland District, the setback may be less than 15 feet.²⁹

8.2.3. Spacing of a Residential Building on the Same Lot with Another Principal Building

A. Where two or more main buildings to be used as dwellings are proposed for construction on property in one ownership, or where one or more such buildings are proposed for construction on property that has one or more existing residential buildings, the minimum required front, side, and rear yards shall be provided between each building and assumed lot lines shall be shown upon the building permit application. However, the Board of Appeals or, in cases subject to Section X.XX [EDR], the Arlington Redevelopment Board, may grant a special permit to modify the yard dimensions between buildings that are designed and intended to remain under the same ownership and management, provided the

²⁸ Should this entire section be removed? It seems more appropriate for the Flood Plain and Inland Wetlands Districts.

²⁹ Deleted: "Before voting to grant a special permit under either section, the shall first consult with the Conservation Commission." If this language is needed at all, it should be with the Flood Plain and Inland Wetlands sections.

result will provide the same light, air, sunlight, and amenity³⁰ as would yard dimensions that conform to Table 2.

- B. When a permitted main building to be used as a dwelling will be located on the same lot with and behind a permitted nonresidential building (including a building with commercial uses on the ground floor and residential uses above), each building shall be independently provided with the minimum required front, side, and rear yards, and required lot area; and the distance between such buildings shall not be less than twice the required rear yard depth.
- C. When a permitted main building to be used as a dwelling is to be located on the same lot with and beside a permitted nonresidential building, the minimum required front, side and rear yards shall be provided between each building. Assumed lot lines shown upon the building permit application.

8.2.4. Spacing of Nonresidential Buildings on the Same Lot

Where two or more main buildings for nonresidential uses are proposed for construction on property in one ownership, the minimum front, side, and rear yards are required only at lot lines abutting other property.

8.2.5. Exceptions to Dimensional Requirements for Religious Uses and Exempt Educational Uses

- A. The maximum floor area ratio requirements for religious uses or exempt educational uses shall be less restrictive than as specified in this Section 7 in the following respects:
 - 1. Where several lots in the same ownership and also in the same use district are separated from each other only by an adjacent street or intersecting adjacent streets, the area of all such lots may be aggregated in calculating floor area ratio.
 - 2. The floor area ratio shall be increased by one percent for each 2,000 square feet of lot area exceeding the minimum lot area for the applicable district, up to a maximum of 50 percent.
- B. Under a special permit, the Board of Appeals or Arlington Redevelopment Board, as applicable, may allow further modifications in the dimensional requirements in this Section 7 to the extent necessary to allow reasonable development of religious uses or exempt educational uses in general harmony with other permitted uses in the vicinity.³¹

8.2.6. Exceptions to Minimum Lot Size, Frontage, Open Space, and Side Yard Requirements in R0, R1 and R2 Districts

³⁰ This is unclear. What is the intent?

³¹ I question the legality of this special permit requirement. Also, the existing language is, "... to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity."

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- A. The minimum lot size, frontage, open space and side yard requirements set forth in the Table 2 for residential uses in the R0, R1 and R2 districts may not apply to lots shown on subdivision plans approved by the Board of Survey or on plans or deeds duly recorded with the Registry of Deeds prior to May 15, 1924. When such lots did not contain a principal building or if a building permit was not issued for construction on such lots prior to August [date?] 1975, they may be built upon for single or two-family residential use if permitted in the applicable district, provided that
1. The lot contains at least 5,000 square feet of area and 50 feet of frontage, and
 2. The lot was not held in common ownership with any adjoining land, and
 3. The lot conformed to then-existing dimensional and density requirements at the time that it was shown on an approved plan or by recorded deed or plan, and
 4. The minimum open space requirements of this Section 7 are satisfied³² and the requirements of Section 9.03, are satisfied.
- B. The minimum lot size, frontage, and side yard requirements in Table 2 for residential uses in the R2 district may not apply to lots on Sunnyside Avenue, Gardner Street, Silk Street, Marrigan Street, and Fremont Street which were shown on separate subdivision plans recorded with the Registry of Deeds prior to August [?], 1975. Such lots containing a single-family dwelling attached to one other single-family dwelling on an adjoining lot as of August [?], 1975, shall be considered building lots.

~~Buildings in Floodplains~~

~~Dimensional and density regulations shall apply to buildings located in floodplains. Additional regulations are contained in Section 11.04.³³~~

8.2.7. Large Additions in Residential Districts

No alteration or addition permitted as a right or by special permit in an R0, R1 or R2 District which increases the gross floor area of a building by 750 square feet or more, or by 50 percent or more of the original building's³⁴ gross floor area, shall be allowed unless (i) the addition is constructed entirely within the existing foundation or (ii) the special permit granting authority finds that the alteration or addition is in harmony with other structures and uses in the vicinity. In making its determination, the special permit granting authority shall consider, among other relevant facts, the dimensions and setbacks of the proposed alteration or addition in relation to abutting structures and uses and determine its conformity to the purposes of this Bylaw as set forth in Section 1. Requests for building permits for additions or alterations which when

³² In the existing ZBL, this paragraph include the following clause: "... and the requirements of Section 9.03, are satisfied." It isn't here because Section 9.03, Residential Lot of Record, is not in the proposed Section 7, Nonconforming Uses and Structures.

³³ This is existing Section 6.07. It doesn't need to be here.

³⁴ What is the "original building"?

combined with an alteration or addition constructed during the previous two years would require a special permit finding shall be deemed to require such a finding.

8.3. LOT SIZE, FRONTAGE, AND LOT AREA PER DWELLING UNIT REGULATIONS

8.3.1. Lot Area Per Dwelling Unit

Minimum lot area per dwelling unit shall control the maximum number of dwelling units that can be constructed on contiguous land under one ownership in one zoning district. In the business (B) districts, when a lot may contain both residential and nonresidential principal structures, the maximum number of dwelling units shall be computed by dividing the total land area by the minimum lot area per dwelling unit. Land in lower density districts used for buildings in higher density districts, e.g., for parking as provided in Table 1, shall not be included in the calculation of minimum lot area per dwelling unit for dwellings in the higher density district.

8.3.2. Sale or Lease of Lots in a Planned Unit Development

A tract of land of at least 30,000 square feet in the Planned Unit Development (PUD) district may be leased or sold for development, following environmental design review under Section X.XX, in accordance with a PUD site plan without providing new setbacks for front, side, or rear yards. Each tract or lot leased or sold must provide for a principal building, off-street parking, and open space or plaza area as required in the PUD district.³⁵

8.4. FLOOR AREA RATIO REGULATIONS

8.4.1. Land Area Included in Calculation of Floor Area Ratio

Land area to be included in the calculation of the maximum floor area shall include all contiguous lots under one ownership and in zoning districts with the same or greater maximum floor area ratio as specified in Table 2. Lots in a district with a lower maximum floor area ratio than an abutting district shall not be included in the calculation of a maximum floor area for any lot in the district with the higher maximum floor area ratio.

8.4.2. Exceptions to Maximum Floor Area Ratio Regulations (Bonus Provisions)

- A. The Board of Appeals or the Arlington Redevelopment Board, as applicable, may grant a special permit to allow a higher maximum gross floor area than is permitted under Table 2, subject to Section X.XX [10.11], Special Permits or Section X.XX [11.06] Environmental Design Review, and to the procedures, limitations, and conditions specified in this Section 7, for a lot (or part of a lot) that meets the following requirements:

³⁵ If required in the PUD district, is it necessary to repeat it here?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

1. The lot (or part of a lot) is located in a district with a maximum floor area ratio of 1.2 or greater.
 2. When the principal use is residential, the lot (or part of a lot) is not less than 20,000 square feet. When the principal use is non-residential, no minimum lot size is required provided all other provisions of Section 7.4.2 are satisfied.
 3. Nonresidential properties listed as Contributing Structures in National Register Historic Districts shall be allowed an increase in floor area ratio up to a maximum of 2.6 by special permit from the Board of Appeals or Arlington Redevelopment Board, as appropriate.
- B. To aid the Board of Appeals in making the findings required in Section X.XX [10.11] and the Arlington Redevelopment Board in preparing the advisory report provided for in Section X.XX [11.06], the applicant shall submit the materials required by Section X.XX [11.06] in addition to the usual drawings at the time of application.
- C. The additional gross floor area granted in accordance with this Section 7 shall not exceed the following percentages of the maximum gross floor area allowed under Table 2 except for Contributing Structures in National Register Historic Districts.

		Districts	
		R7, B5	R6, B2A, B4
1	Maximum allowable	33%	25%
2	Each condition		
	Large lot	25%	20%
	Low or moderate income	25%	20%
	Extra open space on lot	15%	10%
	Public access	15%	10%
	Preservation of Landmarks	15%	10%
	Large dwelling units	10%	5%

- D. The Board of Appeals or Arlington Redevelopment Board, as applicable, may grant a special permit for additional gross floor area where any of the following conditions apply, subject to the limitations in subsection C above and in accordance with the development plans and policies of the Town of Arlington.³⁶ The additional gross floor area shall be calculated separately for each condition based on the gross floor area permitted in Table 2.
1. For a lot that exceeds 20,000 square feet in area, additional gross floor area may be allowed calculated by increasing the floor area ratio specified in Table 2 at the rate of one percent for each 1,500 square feet of lot area in excess of 20,000 square feet.

³⁶ What does this refer to? It needs to be clear.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

2. Where dwelling units are subject to age, income, or pricing restrictions under a federal or state housing subsidy for low or moderate income housing, the gross floor area attributable to them may be allowed in excess of the gross floor area in Table 2.
3. Where landscaped open space or usable open space is provided in excess of the minimum specified in Table 2, additional gross floor area may be allowed at the rate of two square feet of gross floor area for each one square foot of open space in excess of the minimum requirements. The minimum requirements shall be calculated based on the aggregate gross floor area allowable due to calculations from all applicable subparagraphs.
4. For a dwelling with an average gross floor area per dwelling unit of more than 1,100 square feet, such excess gross floor area may be allowed in excess of the gross floor³⁷ area under Table 2. Any gross floor area to be used for offices, for any other nonresidential principal use, or for accessory retail, office, or consumer service uses [Use 8.09] shall not be included in calculating the average gross floor area per dwelling unit.
5. When usable land is deeded or easement granted for public access and use, additional gross floor area may be allowed at the ratio of ten (10) square feet of gross floor area to one (1) square foot of such land. Land so deeded or controlled by easement shall not be counted toward minimum lot size, lot area per dwelling unit, or open space requirements, nor shall it be included with land in calculating total permissible gross floor area from the resulting floor area ratio.
6. When architecturally or historically significant buildings, as documented by the Arlington Historical Commission, are preserved, additional gross floor area may be allowed at the ratio of eight (8) square feet of gross floor area to each square foot of gross floor area of the preserved building. As applied in this section, preservation shall mean restoration of the building and maintaining it on the site, or relocation to an available site.

8.5. HEIGHT REGULATIONS

8.5.1. Reduced Height Limits in Height Buffer Areas

- A. When two different maximum height limits are specified for the same zoning district in Table 2, the lower limit shall apply to any lot or part of a lot located in a height buffer area unless it is determined as a specific finding of a special permit that the properties in the adjacent R0, R1, R2 or OS district would not be adversely affected due to existing use or topographic condition. A height buffer area is defined as a lot or part of a lot which is located at a lesser distance from any land, not within a public way, in an R0, R1, R2 or OS district than the following:

³⁷ This makes no sense. We need direction from the Town.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

1. Two hundred feet if the direction of land in the R0, R1, R2 or OS district is northerly, between northwest and northeast.
2. One hundred and fifty feet if such direction is easterly, between northeast and southeast, or westerly between northwest and southwest.
3. One hundred feet if such direction is southerly, between southeast and southwest.

8.5.2. Exceptions to Maximum Height Regulations

The height limitations in Table 2 shall not apply to the following:

- A. Chimneys, ventilators, skylights, water tanks, bulkheads, penthouses, and other accessory additions that are required or are customarily carried above the roofs of buildings;
- B. Non-habitable towers, spires, domes, cupolas, and similar additions provided they do not occupy more than twenty (20) percent of the ground floor of the building;
- C. A cable television head end receiving antenna not more than 25 feet higher than the uppermost point on any existing structure within 150 feet; otherwise the height limit shall be established in accordance with a special permit.³⁸

8.5.3. Height of Accessory Building and Other Structures in Residential Districts

Accessory buildings or structures used for accessory purposes in any Residential district shall not exceed a height of³⁹ 20 feet.

8.6. YARD AND SETBACK REGULATIONS

8.6.1. Screening and Space Buffers - Industrial and Business Districts and Parking Lots

Screening and space buffers shall be required in any Industrial (I) or Business (B) district which abuts certain buildable residential lots. The minimum width of this strip shall be as follows:

- A. The strip shall contain a screen of plantings of vertical habit not less than three feet wide and six feet high at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than 20 feet on center and they shall thereafter be maintained by the owner or occupants to function effectively as a dense year-round screen. At least 50 percent of the plantings shall consist of evergreens and they shall be evenly spaced.⁴⁰ A solid wall or solid wooden fence, five or six feet in height, complemented by suitable plantings, may be substituted for one-half the required width of the landscaped buffer strip; however, the provisions of this section shall not supersede the minimum setbacks for parking lots in Section X.XX [8.12] nor the minimum yard requirements in Table 2. No screen shall be closer than 10 feet to a public or private way. Where deemed appropriate by the property

³⁸ From which board?

³⁹ Only certain lots? What is the intent here?

⁴⁰ Always? Why?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

owner and **immediate abutters**,⁴¹ and as approved by the building inspector, another wall or fence height or fence type, including but not limited to coated chain link or “wrought iron” types, may be substituted for the required wall or fence.

- B. For any area used for the parking of more than five vehicles, screening provisions of Section X.XX [8.12] shall apply.

8.6.2. Corner Lots and Through Lots

- A. In the case of a corner lot, any yard parallel to a street shall be considered a front yard for purposes of calculating minimum setbacks.
- B. In the case of a through lot, there shall be a minimum required setback at each end which is equal to the front yard depth for the district in which each street frontage is located.

8.6.3. Setback of Accessory Buildings and Other Structures

- A. In the Residential districts, a detached accessory building or structure shall conform to the following minimum setbacks:

<u>District</u>	<u>Distance from lot line (feet)*</u>	
	<u>Front</u>	<u>Side & Rear</u>
R0	25	6
R1	25	6
R2	20	6
R3	10	6
R4	25	6
R5	20	6
R6	20	10
R7	20	10

*Private detached garages need not conform to side yard and/or rear yard setbacks, but shall be governed by the following table. No garage shall be constructed in the front yard.

	<u>Minimum setback from</u>		
	<u>Side lot line</u>		<u>Rear lot line</u>
Construction Type	Garage located entirely within rear yard	Garage located within side yard	
Type 1 and Type 2 with a Type 3B roof	0	10	None
Type 3	6	10	6

⁴¹ The immediate abutters have veto power over someone's permit?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- B. An accessory building attached to the principal building is an integral part thereof and it shall conform to the front, side, and rear yard requirements that apply to the principal building. In R districts, an accessory building with no more than 80 square feet and a height not exceeding seven feet shall be exempt from these requirements. Accessory buildings in the B, MU, and I districts shall be located on the lot so as not to violate the minimum yard, height, and open space requirements in Table 2.
- C. An accessory private swimming pool shall be completely enclosed by a fence that is at least five feet high, measured from the top of the pool, with a self-closing gate and latch. Above-ground pools less than 24 inches deep or with walls four feet or more in height and a removable [missing word?] may be unfenced if approved by the Building Inspector. When applied to accessory private pools, the above table shall apply only to the unnumbered side of a corner lot as a side yard for the purposes of establishing minimum setback requirements.⁴² Other accessory structures except fences shall be governed by the regulations for accessory buildings unless specifically exempt by the Board of Appeals as a special permit.
- D. Accessory buildings in the OS district shall be located on the property so as to maintain the harmonious relationship to the neighborhood, and so as not to detract from the primary goal of the open space use.⁴³

8.6.4. Projections into Minimum Yards

The following may extend beyond the minimum yard requirements for the district in which the structure is built:

- A. Projecting eaves, chimneys, bay windows, balconies, open fire escapes, and enclosed entrances not more than 25 square feet in floor area nor⁴⁴ more than one story high, which do not project more than 3 1/2 feet beyond the line of the foundation wall.
- B. Enclosed entrances larger than that allowed above⁴⁵, by special permit.⁴⁶
- C. Unenclosed steps, unroofed porches and the like, which do not project more than 10 feet in the front yard, or more than five feet in the side yard beyond the line of the foundation wall. Unenclosed steps, unroofed porches and the like which do not project more than 10 feet into the required rear yard and are not closer to the lot line than half the size of the required yard.
- D. Second story additions within the required front yard setback may extend no more than one foot beyond the existing building wall.

⁴² This sentence is so confusing. We have tried to clean it up but finally gave up!

⁴³ What does this mean, and how has the Town interpreted and applied it in the past?

⁴⁴ "Or" in the existing bylaw. Should it be nor?

⁴⁵ What does this refer to?

⁴⁶ We could not determine who the special permit granting authority should be. See existing Section 6.19.

8.6.5. Exception to Minimum Front Yard; Average Setback

Where the required lot frontage of developed residential lots along a block⁴⁷ amounts to more than 50 percent of the block frontage, and where said development has an average setback less than that required by this Bylaw, any vacant lot setback for a residential use may be reduced to said average of the existing development.⁴⁸

8.6.6. Minimum Lot Width in R0, R1 and R2 Districts

In R0, R1 and R2 districts, the minimum lot width⁴⁹ shall be 50 feet, except for the following circumstances: (i) to any lot excepted under the provisions of Section X.XX [6.06], or (ii) to restoration of any principal building that existed on a lot or for which a building permit was issued prior to the effective date of this section. Such width shall be measured along lines parallel to the front lot line.

8.6.7. Dimensional Requirements for Courts

- A. Inner courts shall be permitted in any building. Where an outer court is enclosed by apartment wings, a distance equal to twice the required side yard specified in Table 2 shall be provided between the wings, but not less than 25 feet.
- B. When two townhouse structures are placed face to face or back to back and are parallel or within 45 degrees of parallel, they shall be separated by a distance not less than the sum of the minimum front and rear yards for the district in which they are located.

8.6.8. Traffic Visibility Across Corners

Between the property lines of intersecting streets and a line joining points on such lines 20 feet distant from their point of intersection or in the case of a rounded corner, the point of intersection of their tangents, no building or structure in any R district may be erected and no vegetation other than shade trees may be maintained between a height of three feet and seven feet above the plane through their curb grades.

8.6.9. Traffic Visibility for Driveways

A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot provided that in the front yard area, no such structure or vegetation shall be over two and one-half (2 1/2) feet in height above the adjacent ground within five (5) feet of the front lot line unless it can be shown that such vegetation or structure will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street.

8.6.10. Accessory Underground Structures

⁴⁷ Not defined.

⁴⁸ This paragraph is very unclear to us – too unclear for me to guess what it means.

⁴⁹ Having a good definition of lot width will alleviate a lot of verbiage in this paragraph as it currently exists (and elsewhere in the ZBL).

Any accessory structure or any part of a main structure or building which is located entirely beneath the surface of the ground at the natural grade level may extend into a required front, side, or rear yard except that in any situation where Landscaped Open Space is required, no underground structure or building shall be located beneath more than fifty (50) percent of the required Landscaped Open Space, nor nearer to any lot line for more than seventy-five (75) percent of the length of that lot line.

8.6.11. End Yards for Town House Structures

One town house structure shall be separated from the end of another town house structure by a distance not less than two times the minimum side yard⁵⁰ in Table 2 for the applicable district.

8.6.12. Buildings of Uneven Height or Alignment

- A. Where a building is not of the same height throughout its length parallel (or within 45 degrees of parallel) to any lot line, but where it is in one alignment along said length, required yards and setbacks shall be either $(H1 + L1)/6$ or $(H2 + L2)/6$ whichever is greater, where:

H1 = the height of the taller portion of the building;

H2 = the height of the lower portion of the building;

L1 = the length of the taller portion of the building; and

L2 = the entire length of the building.

Where the formula $10 + L/10$ applies, L shall be defined as L2 above.

- B. Where a building is of the same height throughout its length parallel (or within 45 degrees of parallel) to any lot line, but where it is not in one alignment along said length, required yards and setbacks shall be $(H + L1)/6$ for the portion of the building nearer the lot line; and $(H + L2)/6$ for the portion of the building further from the lot line, where:

H = the height of the building;

L1 = the length of the portion of the building nearer the lot line; and

L2 = the entire length of the building.

Where the formula $10 + (L/10)$ applies, the required yards and setbacks shall be $10 + (L1/10)$ for the portion of the building nearer the lot line; and $10 + (L2/10)$ for the portion of the building further from the lot line, with L1 and L2 defined as above.

- C. Where a building is not of the same height throughout its length parallel (or within 45 degrees of parallel) to any lot line, and where it is not in one alignment along said length, required yards and setbacks shall be calculated as follows:

⁵⁰ Excessive?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

1. Where the taller part of the building is nearer to the lot line required yards and setbacks shall be $(H1 + L1)/6$ for the portion of the building nearer to the lot line; and $(H2 + L2)/6$ for the portion of the building further from the lot line, where:

H1 = the height of the taller part of the building;

H2 = the height of the lower part of the building;

L1 = the length of the taller part of the building; and

L2 = the entire length of the building.

2. Where the formula $10 + (L/10)$ applies, required yards and setbacks shall be $10 + (L1/10)$ for the portion of the building nearer the lot line; and $10 + (L2/10)$ for the portion of the building further from the lot line, with L1 and L2 defined as above.

3. Where the taller part of the building is further from the lot line, required yards and setbacks shall be $(H1 + L2)/6$ for the portion of the building further from the lot line; and $(H2 + L1)/6$ for the portion of the building nearer the lot line, where:

H1 = the height of the taller part of the building;

H2 = the height the lower part of the building;

L1 = the length of the lower part of the building; and

L2 = the length of the entire building.

4. Where the formula $10 + (L/10)$ applies, the required yards and setbacks shall be $10 + (L1/10)$ for the portion of the building nearer the lot line; and $10 + (L2/10)$ for the portion of the building further from the lot line, with L1 and L2 defined as above.

8.6.13. Yards or Setbacks for Lots Adjoining a Street or Public Open Space

In cases subject to Section X.XX [11.06] Environmental Design Review, the Arlington Redevelopment Board may grant a special permit to adjust the minimum required setbacks in order to account for specific conditions unique to the proposal.

8.6.14. Planned Unit Development Yards and Setbacks

In a Planned Unit Development, buildings may be built to any street line provided the street exceeds 60 feet in width or the zoning on the opposite side of the street is not R2. In all other areas, buildings shall be set back one-quarter of the height of the average of principal buildings along the lot line but not less than 25 feet from all front, side, and rear lot lines.

8.7. OPEN SPACE REGULATIONS

8.7.1. Upper Story Building Step Backs

For buildings that exceed three stories in height, an additional 7.5-foot step back (upper story building setback) shall be provided beginning at the third story level or 30 feet above grade, whichever is less. The upper story stepback shall be provided along all building elevations with street frontage, excluding alleys.

8.7.2. Balconies and Roof as Portion of Usable Open Space

The Board of Appeals or, in cases subject to Section X.XX [11.06], the Arlington Redevelopment Board may authorize by special permit that private balconies with a least dimension of six feet and open space on a roof not more than 10 feet above the level of the lowest story used for dwelling purposes may be counted up to 50 percent of the usable open space requirement.

8.7.3. Open Space Regulations for Planned Unit Developments

The minimum open space regulations for planned unit developments are as follows:

- A. Apartments: 10 percent landscaped, 10 percent usable.
- B. Hotels and motels: 10 percent landscaped.
- C. Retail stores: None required around the building if an enclosed wall or arcade is provided facing each retail store. Without an enclosed wall or arcade, a minimum landscaped area of 10 percent shall be required.
- D. Office and professional buildings: 10 percent landscaped.

SECTION 9. GENERAL REGULATIONS

9.1. OFF STREET PARKING AND LOADING REGULATIONS

9.1.1. Purposes and Intent

Purposes. The purposes of this Section 8.1 are to:

- A. Provide for safe and convenient vehicular parking areas;
- B. Promote safety for pedestrians, bicyclists, motor vehicle occupants, and property and business owners;
- C. Promote off-street parking in the Residence Districts in a manner that preserves, to the extent possible, landscaped front yards by allowing the use of a front yard for off-street parking only under exceptional circumstances.

9.1.2. Applicability

No building or structure shall be used or changed to a category of greater parking demand, determined in accordance with Table 3 below, except in accordance with this Section 8.1.

9.1.3. Administration

- A. This Section 8.1 shall be administered by the Building Inspector for a use or activity that requires neither a special permit from the Board of Appeals nor Environmental Design Review by the Arlington Redevelopment Board. Where the phrase, “Board of Appeals or Arlington Redevelopment Board, as applicable,” appears in this Section 8.1, it shall mean “subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section X.XX, Environmental Design Review.”
- B. After the effective date of this Bylaw, off-street parking space shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use or any change in an existing use in its entirety in the Table of Off-Street Parking Regulations, and the other requirements contained herein.

9.1.4. Table of Off-Street Parking Requirements

The minimum number of off-street parking and loading spaces shall be as set forth in Table 3. Off-street parking requirements for a use not specifically listed in Table 3 shall be as specified by the Building Inspector based on a listed use of similar characteristics of parking demand generation.

(Insert Table 3)

9.1.5. Parking Reduction in Business, Industrial, and Multi-Family Residential Zones

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

The Board of Appeals or Arlington Redevelopment Board, as applicable, may allow the reduction of the parking space requirements in the R5, R6 , and Business and Industrial zones to 25 percent of that required in the Table of Off Street Parking Regulations where parking is found to be adequate, and where Transportation Demand Management practices are incorporated, as evidenced by a Transportation Demand Management Plan approved by the special permit granting authority. Methods to reduce parking on site may include but are not limited to:

1. Shared Parking: To implement shared on-site parking, the applicant shall demonstrate that proposed uses are non-competing. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demand for non-competing uses. In such cases the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient.
2. Off-site Parking. An applicant may use off-site parking to satisfy their parking requirements, where alternative parking is within 600 feet of the subject property, as provided in Section 8.06. Off-site parking may be provided in public lots located within 1,000 feet of the building, as provided in Section X.XX [8.11]. Applicant shall document efforts to promote use of off-site parking by customers, residents or employees.
3. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. Transportation Demand Management provides incentives to reduce the use of Single Occupant Vehicles, and encourages the use of public transit, bicycling, walking and ridesharing. All projects requesting a parking reduction must employ at least three TDM methods described below:
 - a. Charge for parking on-site;
 - b. Pay a stipend to workers or residents without cars;
 - c. Provide preferential parking for carpooling vehicles;
 - d. Provide a guaranteed emergency ride home;
 - e. Provide transit pass subsidies;
 - f. Provide covered bicycle parking and storage;
 - g. Provide bicycle or car sharing on site;
 - h. Provide showers for business or industrial uses;
 - i. Other means acceptable to the permit granting authority

9.1.6. Table of Off-Street Loading and Unloading Requirements

The off-street loading and unloading requirements in Table 4, the Table of Off-Street Loading Regulations, shall apply to any nonresidential use. The Board of Appeals or Arlington Redevelopment Board, as applicable, may reduce the loading requirements, including the size

of the loading space, if it finds that so doing will not be detrimental to the structure or surrounding uses.

(Insert Table 4)

A. Existing Spaces

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this Bylaw, or any spaces subsequently provided in accordance with this Bylaw, shall not be decreased or in any way removed from service to the use originally intended to be served so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere on property under the same ownership, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables .

B. Computation of Spaces

When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction of one-half or more shall require one space.

9.1.7. Combined Facilities

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots by the Board of Appeals or Arlington Redevelopment Board, as applicable, where it is evident that such facilities will continue to be available for the several buildings or uses.

9.1.8. Location of Parking Spaces

Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve, or when practical difficulties prevent their establishment on the same lot, they shall be established no further than 600 feet from the premises to which they are appurtenant, subject to approval by the Board of Appeals or Arlington Redevelopment Board, as applicable. Such spaces may be located out of doors or within a structure designed as a public or private garage. Projects subject to Section X.XX, Environmental Design Review, may provide parking off site within 600 feet where it can be shown that a long-term agreement has been made to secure off site parking.

A. Parking in Residential Districts. For single, two-family or duplex, and three-family dwellings, off-street parking shall not be permitted in the area between the front lot line and the minimum front yard setback except on a driveway not exceeding twenty (20) feet in width leading to the required parking space(s). Off-street parking is permitted in (1) the side yard and rear yard on a paved driveway, or in the case of a corner lot of less than six thousand (6,000) square feet in the longer of the two front yards up to a maximum of 24 feet in width, or (2) in an attached or detached garage, or (3) within the foundation of a dwelling provided the garaging is specifically designed for that purpose. A space designed for parking within an existing garage is determined to meet the requirements of an off-street parking space.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

For single-, two-family or duplex, and three family dwellings in R0, R1, R2, R3 and R4 districts, not more than one driveway is permitted, unless there is a finding by the special permit granting authority that a second driveway or a driveway that makes more than one intersection with the street, may be added in such manner as to avoid an undue concentration of population, allow adequate provision of transportation, and conserve the value of land and buildings in the vicinity. In no case may a second driveway for a single-, two-family or duplex, or three family dwelling violate any other dimensional or density regulations for the district in which it is located.

For single-, two-family or duplex, and three-family dwellings in R0, R1, R2, R3, and R4 districts, not more than two driveways are permitted.

- B. Parking in Commercial Districts. For properties located in the B1, B2, B2A, B3, B4, and B5 districts, no parking shall be permitted in the front yard, nor shall any driveways directly in front of a structure be permitted without a finding by the ZBA or, in cases subject to Section 11.06, the ARB, that the parking or driveway is necessary and convenient to the public interest.
- C. For Mixed-Use development, the first 3,000 square feet of non-residential space is exempt from parking requirements.
- D. Parking of Commercial Vehicles. The parking of commercial vehicles shall be in accordance with Table 2.

9.1.9. Pavement of Parking Spaces

Parking areas with five spaces or less shall be surfaced with a permanent material or binder such as bituminous cement, concrete, porous asphalt, pervious concrete, concrete brick, paving stones, grass pavers, bluestone, stone dust, star pack, or similar stable gravel materials, or other material which shall be nonerosive material.

9.1.10. Public Parking Lots

The Board of Appeals or Arlington Redevelopment Board, as applicable, may allow the substitution of space within public parking lots in lieu of parking requirements of this Section 8.1 provided they are located within 1,000 feet of the building to be served.

9.1.11. Location of Loading Spaces

The loading spaces required for the uses listed in the Table of Off-Street Loading Regulations shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this Bylaw.

9.1.12. Parking and Loading Space Standards

- A. A parking space may be inside or outside a structure and shall be for the exclusive use of one motor vehicle. Spaces entered from the front or rear, and stacked spaces, shall have minimum dimensions of 8.5 feet by 18 feet. Compact car parking spaces permitted in

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

accordance with Section X.XX [8.12] shall be at least 8 feet by 16 feet. For parallel parking, a space shall have minimum dimensions of 8 feet by 22 feet, except that such spaces which are open and unobstructed at one end may be only 18 feet in length. In residential side yards, the width of a parking space may be the width of the side yard, but in no case less than 7.5 feet.

B. All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be paved and subject to the following:

1. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices and shall be subject to approval by the Town Engineer. The use of porous asphalt, pervious concrete, paving stones, or grass pavers may also be used to meet this requirement, in whole or part, subject to the approval of the Town Engineer. The location of spaces shall be suitably marked by painted lines or other appropriate markings.
2. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed, shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks and screening materials.
3. Each required off-street parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic or the following widths in the case of one-way traffic only:

(Insert chart)

4. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
5. There shall not be any business operation for vehicle repair or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive use. Any accessory gasoline or oil facilities shall be at least 25 feet from any lot line.
6. There shall not be any storage of materials or equipment or, with the exception of duly authorized yard sales, display of merchandise within the required parking area.
7. Any portion of any entrance or exit driveway shall not be closer than fifty (50) feet to the curb line of an intersecting street.
8. Any two driveways leading to or from a street, or to or from a single lot, shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet from the intersection of the lot line with the street right-of-way for a corner lot.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

9. Any entrance or exit driveway shall not exceed 24 feet in width at its intersection with the front lot line except for automotive service stations and fire stations, in which cases the width may be increased to forty (40) feet.
 10. In R0, R1, R2, R3, and R4 zones, the Board of Appeals or Arlington Redevelopment Board, as applicable, may grant a special permit to allow the reduction of the parking space requirements to eighty (80) percent of that required in the Table of Off-Street Parking Regulations where conditions unique to the use will reasonably justify such a reduction.
 11. The Board of Appeals or Arlington Redevelopment Board, as applicable may grant a special permit allowing up to 20 percent of the spaces in a parking lot or garage to be sized for compact cars.
- C. All parking and loading areas containing over five spaces which are not inside a structure shall also be subject to the following.
1. The surfaced area shall be set back at least 10 feet from front lot lines and from all lot lines of abutting property used for residential purposes; however, for side and rear lot lines the setback need only be five feet if the setback includes a solid wall or solid wooden fence, five to six feet in height complemented by suitable plantings. In no case shall the paved area be set back from the front lot line a distance less than the minimum front yard setback for the district, nor from a side or rear lot line a distance less than the minimum buffer width required by Section X.XX [6.16(a)]. Where deemed appropriate by property owner and immediate abutters, and as approved by the building inspector, another wall or fence height or fence type, including but not limited to coated chain link or “wrought iron” types may be substituted for the required wall or fence.
 2. The area shall be effectively screened with suitable planting or fencing on each side which faces abutting lots used for residential purposes. Such screening shall be within the lot boundaries, and at least five feet and not more than six feet in height. Parking areas and access driveways accessory to any multi-family dwelling shall be separated from said building by a buffer strip of green open space not less than five feet in width and suitably planted.

The area within the setback from the front lot line shall be landscaped and shall contain a compact hedge, fence, or berm at least three feet high, placed parallel to the street except within 10 feet of driveways.
 3. Parking shall not be located within the required front yard area in any district.
 4. Parking and loading spaces other than those required for single- and two-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.
 5. Parking areas providing more than 25 spaces shall include landscaped area which is at least 8 percent of the total paved portion of the parking area. Minimum required landscaped setbacks and buffers at the perimeter of the parking area shall not be

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

counted toward the landscaping requirement of this paragraph. Individual strips of landscaping shall be at least four feet in width.

- D. The standards of Section 8 may be modified to increase capacity for parking lots if both of the following conditions are satisfied as findings of a special permit:
1. Reasonable alternative measures have been taken to meet the intent of these standards which is to minimize traffic congestion entering and within parking lots, separate parking from pedestrian spaces, provide adequate drainage, screen parking lots from adjacent, residential uses and from street frontages (preferably with landscaped spaces), and facilitate snow removal and storage;
 2. All landscaped space required by this section is provided at some location in the parking lot, including required landscaping which may be lost in setbacks reduced in size by the provisions of this subsection.

9.1.13. Bicycle Parking

- A. Bicycle parking spaces shall be provided for any development subject to Section 3.5, Environmental Design Review and any use requiring eight or more vehicle parking spaces in Table 3. The bicycle parking requirement will be determined based on the number of motor vehicle parking spaces which have been permitted by the Board of Appeals or Arlington Redevelopment Board, as applicable. The requirements of this section may be modified by the applicable Board if it finds that for the use and location, a modification is appropriate and in the best interest of the Town.
- B. When bicycle parking is required, there will be one bicycle parking space per 15 motor vehicle spaces as required in Table 3. The computed number of bicycle parking spaces will be rounded up to the nearest whole number of bicycle spaces. Bicycle parking spaces shall be provided in addition to motor vehicle parking spaces.
- C. When bicycle parking is required, there will be a minimum of two spaces provided; not more than 20 bicycle spaces will be required at a single site.
- D. A bicycle rack, or bicycle storage fixture or structure shall accommodate a bicycle six feet in length and two feet in width. Bicycle racks or storage fixtures must be secured against theft by attachment to a permanent surface. Bicycle parking apparatus shall be installed in a manner that will not obstruct pedestrian or motor vehicle traffic.
- E. To the extent feasible, bicycle parking shall be separated from motor vehicle parking to minimize the possibility of bicycle or auto damage.
- F. The following uses are exempt from bicycle parking requirements: places of worship, cemetery, funeral home, automotive repair shop, car wash, or gas station.

9.2. SIGNS

9.2.1. Purposes and Intent

The purposes of this Section 9.2 are to:

- A. Prevent hazards to vehicular and pedestrian traffic;
- B. Prevent conditions which have a blighting influence and contribute to declining property values;
- C. Provide for easy recognition and legibility of all permitted signs and other uses in the immediate vicinity;
- D. Preserve the amenities and visual quality of the town and curb the deterioration of the community environment; and
- E. Maintain public safety, consistent with constitutional requirements protecting freedom of speech.

9.2.2. Applicability

All outdoor signs and window signs are subject to the regulations of this Section 9.2 unless specifically excluded herein. No signs shall be hereinafter constructed, maintained or permitted except in accordance with this Section.

9.2.3. Administration

The Building Inspector shall have authority to issue sign permits under this Section 9.2. Where the phrase, “Board of Appeals or Arlington Redevelopment Board, as applicable,” appears in this Section, it shall mean “subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section 3.5, Environmental Design Review.”

9.2.4. General Regulations

- A. The provisions of Section 9.24 shall be the general controlling section for all signs. Specific regulations by zoning district are set forth in Sections 9.25.
 - 1. Any traffic, directional, informational, educational or identification sign owned and installed by a governmental agency shall be permitted, including, notwithstanding any other provision of this Bylaw, promotional, informational or directional signage placed by the Town relative to historic sites. Acknowledgement of any commercial sponsorship on these signs shall not exceed 3 percent of the sign area.
 - 2. A sign (including interior window displays or banners, either temporary or permanent) or its illuminator shall not by reason of its location, shape, size, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

3. No red or green lights shall be used on any sign if, in the opinion of the Building Inspector with the advice and consent of the **Director of Police Services**,⁵¹ such light would create a driving hazard.
4. No sign shall be illuminated between 12:00 midnight and 6:00 a.m., except signs identifying police or fire stations or hospitals, except signs on premises open for business and then only while open for business.
5. All illumination shall be either interior and nonexposed or exterior and shielded and directed solely at the sign and shall be steady and stationary and of reasonable intensity, except that interior illumination is prohibited for bracket signs. Signs fabricated with letters, numbers, designs, or images consisting of a visible light source emitted from the face of the sign, including but not limited to incandescent and fluorescent bulbs, LED price signs, LED and digital displays, and neon tubes, are prohibited.
6. In buildings where the first floor is substantially above grade and the basement is only partially below street grade, one sign for each level is allowed if each sign has only one half the square footage of sign area as would be permitted for a single sign.
7. The limitations as to the number of signs permitted do not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry, or residence. Such signs shall not carry the name of any business or product. Such signs shall not exceed one square foot in area.
8. One informational sign up to 4 square feet in area, indicating the existence of, and meeting time and place among other things of an Arlington civic organization, may be erected only after the granting of a special permit. The exact size, design, content and location shall be subjects of the special permit. Several such signs of service organizations may be consolidated into one sign in which case the maximum sign area shall be limited to four square feet times the number of organizations listed on the sign.
9. Two signs identifying churches, synagogues, and other similar religious uses are permitted on each street frontage, one of which may not exceed 20 square feet in area and one which may not exceed 10 square feet in area. One sign may be free-standing and may be used for church notices and announcements of services and events at the church, synagogue or similar religious institution.
10. One sign, up to one square foot in area, is allowed per residence indicating the name and address of the occupants therein.
11. One sign is allowed for each of the following in any zone:
 - a. Membership club

⁵¹ Is this the correct title?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- b. Community facility
- c. Funeral establishment
- d. Public utility
- e. Place of public assembly
- f. Premises for sale or lease

Provided such signs above shall not exceed six square feet in area and it shall be located on the face of the building or free-standing and set back at least 10 feet from the lot line.

- 12. A construction project sign indicating the name of the engineer, architect, and contractor or other firms associated with the project, provided it does not exceed 32 square feet in area.
- 13. One temporary sign is allowed per establishment for a period not to exceed 60 days, providing the sign does not exceed the size of the maximum allowed for the site in the district in which it is located. No more than one temporary sign permit may be issued for a site in a calendar year. Before a temporary sign (other than a temporary sign placed in a window) shall be erected, there shall be deposited with the Inspector of Buildings the sum of \$20 in cash for each sign. The deposit shall be refunded only upon the removal of the sign. Temporary signs larger in size or displayed more often than allowed by this bylaw may be authorized for public or charitable purposes.
- 14. A sign area larger than that specifically allowed in 9.25 is allowed by special permit under Section 9.27.
- 15. In any district that allows wall signs, a structure may have no more than two of the following categories of signs: wall sign, window sign, and awning sign.
- 16. The lettering on any sign indicating that a business is open or closed may not exceed six inches in height.
- 17. Notices in compliance with Title V, Article 1 of the Town Bylaws are allowed in any district.

B. Prohibited Signs

The following signs shall not be permitted, constructed, erected or maintained.

- 1. Signs which incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature.
- 2. Wind signs, including banners, pennants, spinners, streamers, and other wind-actuated components.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

3. String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration.
4. Any sign which advertises a business no longer in existence, or a product or service no longer sold.
5. Portable signs.
6. Window signs which cover more than 25 percent of the area of the window.
7. Signs for home occupations.⁵²
8. Signs, except awning signs, painted or posted directly on the exterior surface of any wall.
9. Signs that obstruct any door, window or fire escape on a building.
10. Signs constructed, erected, or maintained on the roof of any building.
11. Signs which project over a public right-of-way, with the exception of wall signs which may project no more than 12 inches from a building face, and with the further exception of bracket signs in the B3 and B5 zoning districts.
12. Signs in the R, B1 and OS districts containing a registered trademark or portraying a specific commodity⁵³ for sale. In all other districts, signs which contain a registered trademark or portray a specific commodity for sale occupying more than 10 percent of the sign area, unless said registered trademark or commodity is the principal activity conducted therein.

C. Permitted Signs

1. In Any R District. One unlighted, permanent sign for any permitted use except a residence or home occupation sign or signs controlled by Section X.XX [7.071] not to exceed four square feet in area and if a ground sign, set back not less than one half the depth of the front yard.
2. Bed and Breakfast Signs. A bed and breakfast or a bed and breakfast home in any zoning district may not have more than one permanent, unlighted sign, not to exceed four square feet in area, and if a ground sign, it must be set back not less than half the depth of the front yard.
3. Signs Permitted in any B, I or PUD District.
4. One wall sign for each street or parking lot frontage of each establishment. Unless further limited by the provisions of Section X.XX and X.XX [7.071 and 7.072], there shall not be more than two permanent signs for any one business or industrial

⁵² Really?

⁵³ Here and elsewhere in Section 9.2, highlighted text raises concerns about content-based regulation.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

establishment, including freestanding signs but excluding window signs, directional signs, directories, marquees, and awnings.

5. One directory of the tenants of the building affixed at each entrance not exceeding an area determined on the basis of one square foot per tenant.
6. One marquee sign for each public entrance to a theater provided that the marquee shall not be more than four feet overall in height.
7. One awning sign for each display window of a store.

9.2.5. Special Controls by Zoning District

- A. Signs Permitted in B1, R6, R7 Districts. Not more than one accessory wall sign up to a maximum of 20 square feet in area, or ground sign up to a maximum of eight square feet in area, per building except that in R6 and R7 districts, buildings which were originally designed for commercial use, may have one permanent wall sign not to exceed two feet in height, and if containing a trademark or if portraying a specific commodity for sale, such trademark or commodity shall not occupy more than ten percent of the sign area, unless said trademark or commodity is the principal activity conducted therein.
- B. Signs Permitted in Any B2 or T District. One permanent wall sign not to exceed two feet in height or a ground sign not to exceed 20 square feet in area and if containing a registered trademark or portraying a specific commodity for sale, such trademark or portrayal shall not occupy more than 10 percent of the sign area unless said registered trademark or commodity is the principal activity conducted therein.
- C. Signs Permitted in Any B3, B5 I, or PUD District. One permanent wall sign for each street or parking lot frontage of each establishment, and if containing a registered trademark or portraying a specific commodity for sale, such trademark or commodity shall not occupy more than 10 percent of the sign area, unless said registered trademark or commodity is the principal activity conducted therein.
- D. Signs Permitted in Any B3 and B5 District. One sign permitted in Sections X.XX and X.XX [7.06 and 7.073] may be a bracket sign meeting the following dimensional requirements : a) no less than 8 feet clearance from ground level to bottom of the sign, b) no more than 15 feet high from ground level to top of the sign, c) the square footage of the sign shall be no larger than 12 sq feet or the number of feet equal to half the façade length of the establishment on which the sign hangs, whichever is less, and d) the sign shall project no more than 50 inches from the face of the building. The area of the sign shall be calculated based on its maximum height and width. Bracket signs shall not be hung over a vehicular way, shall not extend above the building, and shall not extend beyond the curb line.
- E. Signs Permitted in Any B2A or B4 District
 1. One permanent wall sign for each street or parking lot frontage of each establishment not to exceed 40 square feet and to conform to the "wall sign" provisions of Article 7.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

2. One standing sign which does not exceed 24 square feet in lieu of the wall signs permitted in Section X.XX [7.074a]. If a standing sign is provided, there may be one permanent wall sign which does not exceed 20 percent of the area of the standing sign.
3. On property at any corner formed by intersecting streets, no free-standing sign shall be erected within that triangular area between the property lines and a diagonal line joining points on the lines 25 feet from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve at such corner and a diagonal line joining points on such tangents 25 feet from the point of their intersection.
4. Where a single lot is occupied by more than one establishment, whether in the same structure or not, there shall not be more than one free-standing sign for each lot street frontage.
5. At gasoline service stations, one standard sign is allowed for each gasoline pump, bearing in usual size according to state regulations, and usual form, the name and/or type of gasoline and the price thereof.
6. If containing a registered trademark or portraying a commodity for sale, such trademark or commodity shall not occupy more than 10 percent of any sign area, unless said registered trademark or commodity is the principal activity conducted therein.

F. Signs Permitted in MU Districts

1. One free-standing sign provided such sign is not more than four feet by six feet or 24 square feet in area and the top of the sign is not over 12 feet above the ground.
2. One wall or standing sign for identification of each building provided the surface area of such sign of one side shall not be more than 10 square feet nor, if a standing sign, more than six feet above ground.
3. Directional signs that point out parking lots and specific services provided they are not larger than one foot by three feet and provided the top of the sign is not more than four feet above the ground.

G. Signs Permitted in OS Districts

1. One unlighted permanent freestanding sign for any permitted use, not to exceed four square feet in area and set back not more than 15 feet from the front property line.
2. On properties which provide space and amenities for recreational, educational and organized social activities, a kiosk not to exceed twenty-four square feet may be substituted for a freestanding sign. Such a kiosk is intended to serve community needs; no material in the nature of commercial advertisement shall be a part of the kiosk with the exception of sponsorship acknowledgement which may not exceed 3 percent of the area of the kiosk.

9.2.6. Sign Permits and Maintenance

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- A. Application for a sign permit to erect, install, place, construct, alter, move, or maintain a sign shall be submitted to the Building Inspector on forms provided by the Building Department.
- B. Upon receipt of a complete application for a sign permit, the Building Inspector shall transmit a copy to the Director of Planning and Community Development for review and comment. The Director shall submit an advisory report with recommendations as to location, size, color, and lighting among others to the Building Inspector within 14 days of receipt of the application. Failure to submit a report within the 14-day time period shall constitute no objection to the permit by the Department.
- C. A sign permit shall be issued only if the sign complies or will comply with all applicable provisions of this Bylaw.
- D. The Building Inspector is authorized to order the repair or removal of any sign and its supporting structure which in the judgment of the Building Inspector is dangerous or in disrepair, or which is erected or maintained contrary to this Bylaw.

9.2.7. Special Permits

- A. Under certain circumstances, the Board of Appeals or Arlington Redevelopment Board, as applicable, may issue a special permit to allow more than the number of signs permitted under this Section 9.2, or signs of a greater size or in a location other than that specified in this Section 9.2 if the architecture of the building, the location of the building relative to the street, or the nature of the use being made of the building is such that an additional sign or signs of a larger size should be permitted in the public interest. In granting sign special permit, the Board of Appeals or Arlington Redevelopment Board, as applicable, shall specify the size and location of the sign or signs and impose other terms and restrictions as it may deem to be in the public interest. However, in no case shall any sign permitted exceed a maximum of four feet times the linear face of the building front.
- B. Submission requirements and procedures for a sign special permit shall be in accordance with Section 3.4 of this Bylaw and the rules and regulations of Board of Appeals or Arlington Redevelopment Board, as applicable.

9.2.8. Nonconformance of Accessory Signs

Accessory signs or other advertising devices legally erected before the adoption of this Bylaw may continue to be maintained, provided, however, that:

- A. No sign or other advertising device shall be permitted if it is, after the adoption of this Bylaw, enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this Bylaw; and
- B. Any sign or other advertising device that has deteriorated to such an extent that the cost of restoration would exceed 35 percent of the replacement cost of the sign or other advertising device at the time of the restoration, shall not be repaired or rebuilt or altered except to

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

conform to the requirements of this bylaw. Any exemption provided in this section shall terminate with respect to any sign or other advertising device which:

1. Shall have been abandoned;
2. Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on at the particular premises; or
3. Shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the Inspector of Buildings.

9.2.9. Nonaccessory Signs

- A. No person, firm, association, or corporation shall erect, display or maintain a billboard, sign, or other outdoor advertising device, except those exempted by G.L. 93, §§ 30 and 32.
- B. No billboard, sign or other advertising device shall be erected, displayed or maintained in any block in which one-half of the buildings on both sides of the street are used exclusively for residential purposes; except that this provision shall not apply if the written consent of the owners of the majority of the frontage on both sides of the street in such block is first obtained and is filed with the Division of Highways of the Department of Public Works of the Commonwealth of Massachusetts, together with the application for a Permit for such billboard, sign or other advertising device.
- C. Not more than one nonaccessory sign shall be permitted on each lot. No nonaccessory sign shall be erected, constructed or maintained within 50 feet of another nonaccessory sign, unless said nonaccessory signs are on one structure and placed back to back.
- D. No nonaccessory signs shall be erected in any R district and, except as specifically exempt by the applicable regulations of the Massachusetts Board of Outdoor Advertising, no nonaccessory sign shall be erected in any B or I district:
 1. On the premises of or within 300 feet of, a district, site, building, structure or object which is listed in the National Register of Historic Places in accordance with P. L. 89 665, 805.915 (1966) as amended;
 2. On the premises of or within 300 feet of any church, chapel, synagogue, school, public playground, hospital, municipal building (including without limitation town hall, fire and police stations and public library buildings, MBTA station), museum, public park or reservation, a permanently erected memorial to veterans or monument;
 3. Within 200 feet of the 100-year floodline of the Alewife Brook, Mystic Lake, Mystic River, Mill Brook, Spy Pond or any wetlands shown on the floodplain and wetland overlay of the zoning map of the Town of Arlington;
 4. Within a radius of one hundred 150 feet from the point where the centerlines of two or more public ways intersect;
 5. Exceeding a height of 30 feet measured from the ground surface;

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

6. Upon the roof of any building;
 7. Exceeding an area of 300 square feet or one-half square foot per foot of lot frontage or, in the case of wall signs, of one-sixth of the area of said wall, whichever is smaller;
 8. Containing a sign face with a vertical dimension in excess of 12 feet;
 9. Nearer than 100 feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of eight feet or a height of four feet;
 10. Nearer than 300 feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of 25 feet or a height of 12 feet; or
 11. In any event if such billboard, sign or other advertising device shall exceed a length of 50 feet or a height of 12 feet; except that the Selectmen may permit the erection of billboards, signs or other advertising devices which do not exceed 40 feet in length and 15 feet in height if not nearer than 300 feet to the boundary line of any public way.
- E. No billboard, sign or other advertising device shall be erected, displayed or maintained without a permit from the Division of Highways of the Department of Public Works pursuant to the following provisions: Upon receipt from the Division of a notice that application for a permit to erect, display or maintain a billboard, sign or other advertising device within the limits of the town has been received by it, the Board of Selectmen shall hold a public hearing on said application in the town, notice of which shall be given by posting the same in three or more public places in said town at least one week before the date of such hearing. A written statement as to the results thereof shall be forwarded to the Division containing, in the event of a disapproval of such application, the reasons therefor, within 30 days from the date of notice of the town that an application for such a permit had been made.
- F. This Bylaw shall not apply to signs or other devices erected and maintained in conformity with law, which advertise or indicate either the person occupying the premises in question or the business transacted thereon, or advertising the property itself or any part thereof as for sale or to let and which contain no other advertising matter and provided further that this Bylaw shall not apply to billboards, signs or other advertising devices legally maintained, at the time of its approval by the Attorney-General, until one year from the first day of July following such approval.

SECTION 10. SPECIAL REGULATIONS

10.1. INCLUSIONARY HOUSING

10.1.1. Purpose

The purpose of this Section 10.1 is to promote the public health, safety and welfare by encouraging the expansion and improvement of the Town's housing stock, especially its affordable housing; to provide for a full range of housing choices for households of all incomes, ages, and sizes; to minimize the displacement of lower-income Arlington residents; and to increase the production of affordable housing to meet employment needs.

10.1.2. Applicability

This Section shall apply to any new residential development of six or more dwelling units, including a phased or segmented project as defined in Section 2.⁵⁴

10.1.3. Definitions⁵⁵

The following definitions shall apply to this Section 10.1.

Affordable Housing: A rental unit that is affordable to a household with income at or below 60 percent of area median income, or a homeownership unit that is affordable to a household with income at 70 percent of area median income. Such units shall meet all applicable requirements for inclusion in the Massachusetts Department of Housing and Community Development (DHCD) Chapter 40B Subsidized Housing Inventory (SHI).⁵⁶

Affordable Housing Restriction: A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town and approved by Town Counsel, that effectively restricts occupancy of an affordable housing unit to an income-eligible purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law,⁵⁷ and be entered into and enforceable under the provisions of G.L. c. 184, §§ 31-33 or other equivalent state law. The restriction shall be subject to approval by Town Counsel.

⁵⁴ It looks as though you don't need to refer to EDR in this subsection because the project size (6+ units) will trigger EDR anyway – yes?

⁵⁵ For purposes of the first draft, we've left the Affordable Housing definitions here (though we have revised some). However, all definitions should be in Section 2 and we would propose to move these to Section 2 in the second draft.

⁵⁶ By including this clause, you will obviate the need to spell out a lot of details that do not need to be in the Zoning Bylaw, e.g., housing cost not exceeding 30 percent of monthly income, eligible household being one with income at 80 percent AMI, the mortgage interest rate and term assumptions, affirmative marketing are SHI requirements, etc.

⁵⁷ Does the Town typically require perpetual restrictions?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

Area Median Income: The median family income for the metropolitan area that includes the Town of Arlington, as determined annually by the U.S. Department of Housing and Urban Development.

Fair Market Rent: An amount determined by the U.S. Department of Housing and Urban Development to determine the maximum rental payment to be paid to the property owner under the Section 8 program.

Phased or Segmented Project: A development of six or more units on one lot, or on two or more adjoining lots in common ownership or common control, for which special permits or building permits are sought within a period of two years from the first date of application for any special or building permits for the development.

Units: Dwelling units or lodging units.⁵⁸

10.1.4. Basic Requirements

- A. In any development that is subject to this Section 10.1, 15 percent of the residential units shall be affordable housing. Fractions shall be rounded up to the next whole number.
- B. Affordable units shall be located on the locus of the development, except as follows.
 - 1. In exceptional circumstances, the Arlington Redevelopment Board may allow the developer to pay a fee to the Affordable Housing Trust Fund in lieu of providing affordable units if it finds that:
 - a. it is in the best interest of the Town to do so, or
 - b. the provision of affordable units would result in a hardship such as rendering the development financially infeasible.
 - 2. The fee per affordable unit shall be equal to the difference between the fair market value of a market-rate unit⁵⁹ and the maximum affordable purchase price or rent, and shall be payable in full prior to issuance of a final occupancy permit.
- C. Affordable units shall be dispersed throughout the project and shall be comparable to market-rate units in terms of location, quality and character, room size, number of rooms, number of bedrooms, and external appearance.
- D. Notwithstanding the special permit requirement in Section 8.12(a)(10):
 - 1. The applicant shall have the option to reduce the number of spaces required in Section X.XX (Off-Street Parking) by up to 10 percent.

⁵⁸ How does the bylaw work with lodging units? Has it worked?

⁵⁹ The expected value of a market-rate unit in the development, or market value based on recent sales of comparable units? Instead of this language, you could simply say the fee in lieu shall be in accordance with the ARB's rules and regulations. Also, is the fee in lieu limited to homeownership units?

2. In the case of a single room occupancy dwelling, dormitory, or a boarding house or lodging house, where more than 50 percent of the units are affordable to households earning no more than 60 percent of the area median income, the Arlington Redevelopment Board may grant a special permit to reduce the number of parking spaces to 50 percent of the requirements in Section X.XX (Off-Street Parking), if it can be shown that the proposed parking will be sufficient for both residents and employees, as determined by the Board.

10.1.5. Administration

- A. The ARB shall administer this Section 10.1 and shall promulgate rules and regulations to implement its provisions.
- B. Affordable units shall be constructed or otherwise provided in proportion to market-rate units. Proportionality shall be determined by the number of building permits or certificates of occupancy issued for affordable and market-rate units, or lot releases, as applicable. Affordable units shall not be the last units to be built in any development that is subject to this Section 10.1.
- C. Condominium documentation shall provide the owners of the affordable units with voting rights sufficient to ensure an effective role in decisions made by the condominium association.

10.2. HOME OCCUPATIONS

10.2.1. Purposes

The purpose of the Home Occupation bylaw is to provide for the conduct of home occupations in a residential area while preserving the residential character of the premises and preventing adverse effects on the neighborhood.

10.2.2. Applicability

A home occupation shall be allowed by right as shown in Table 1 if it meets the requirements of this Section 10.X.

10.2.3. Basic Requirements⁶⁰

- A. The business use shall be subordinate to the residential use of the premises. No more than 25 percent of the existing gross floor area of the dwelling unit, up to a maximum of 600 square feet, shall be used for the home occupation. No stock in trade, commodities, or products of the home occupation shall occupy space beyond these limits.

⁶⁰ We removed the existing Section 5.05(f). It's too vague for us to work with.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- B. There shall be no no outside storage of goods or wares and no visible evidence of the home occupation from the street or an adjacent lot. A home occupation shall be conducted entirely indoors.
- C. No nonresident of the premises shall be employed in the home occupation.
- D. There shall be no change in the exterior appearance of the dwelling used for the home occupation. No signs shall be permitted for a home occupation except in accordance with Section X.X of this Bylaw.⁶¹ No advertising devices visible from off the lot are specifically prohibited.
- E. The buildings or premises shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to exterior appearance, emission of odor, gas, smoke, dust, noise, or electrical disturbance, or in any other way. In a structure containing more than one dwelling unit, the use shall in no way become objectionable or detrimental to any residential use within the structure.

10.3. REMOVAL OF SAND, GRAVEL, QUARRY, OR OTHER EARTH MATERIALS

No sod, loam, sand, gravel, or quarry stone shall be removed for sale (except when incidental to and in conformity with construction of a building for which a building permit has been issued) without a special permit from the Board of Appeals.

⁶¹ Or the Town's General Bylaws, depending on what you decide about the sign bylaw.

SECTION 11. SPECIAL DISTRICT REGULATIONS

11.1. FLOODPLAIN DISTRICT

11.1.1. Purposes

The objectives of this District are to promote:

- A. The health and safety of the occupants of lands subject to seasonal or periodic flooding in the Mill Brook, Alewife Brook, Mystic River, and Mystic Lakes floodplain, as shown on the zoning overlay map of the Town of Arlington.
- B. To prevent the reduction of the water-carrying capacity of streams, brooks, rivers, and drainage courses by prohibiting the destruction or alteration of their natural character, and by preventing encroachment by future development, both public and private, in the floodway. A floodway includes the normal channel of a river or stream and those portions of the floodplains adjoining the normal channel which are reasonably required to carry off the flood flow.
- C. The preservation of the natural flood control characteristics and the water storage capacity of the floodplain.
- D. To protect the public from hazard and loss through the regulation of future development of lands adjoining such watercourses.
- E. The safety and purity of water; control and containment of sewage; safety of gas, electric, fuel, and other utilities from breaking, leaking, shortcircuiting, grounding, igniting, electrocuting or any other dangers due to flooding.

11.1.2. Boundaries

The Floodplain District is superimposed over any other district established by this Bylaw. The 100-year floodplain is defined as the relatively flat lowland which adjoins a watercourse or other body of water and which is subject to seasonal or periodic flooding by the watercourse or water body at a storm frequency of 100 years. Specifically, the Floodplain District includes those areas along the Mill Brook, Alewife Brook, Mystic River, Spy Pond, Arlington Reservoir, and Mystic Lakes which are in the 100-year floodplain as established on the Middlesex County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District may be defined by the 100-year floodplain shown on the Middlesex County FIRMs (panel numbers 25017C0412E, 25017C0416E, 25017C0417E, 25017C0418E, and 25017C0419E), dated June 4, 2010, and further defined by the Middlesex County Flood Insurance Report (FIS), dated June 4, 2010. The FIRMs and FIS Report are incorporated herein by reference and are on file with the Town Clerk, Arlington Redevelopment Board, Director of Inspections, and Conservation Commission.

11.1.3. Applicability

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- A. Any proposed use, structure, development, filling, grading, or excavation within the Floodplain District shall be governed by all regulations of this Section 9.1 and Section 9.2, G.L. c. 131, § 40, Wetlands Protection Regulations of the Town Bylaws (Title V, Article 8), Department of Environmental Protection (DEP) 310 CMR 10.00, Inland Wetlands Restriction (DEP) 310 CMR 13.00, and the section of the Massachusetts State Building Code that addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, 'Flood Resistant Construction and Construction in Coastal Dunes', and shall require a building permit. The extent of the Floodplain District shall be determined by the Building Inspector.
- B. Where the phrase, "Board of Appeals or Arlington Redevelopment Board, as applicable," appears in this Section 9.1, it shall mean "subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section 3.5, Environmental Design Review."

11.1.4. Use Regulations

- A. Prohibited Uses. Mobile homes shall not be permitted at any location in the Floodplain District, and no construction, development, or filling shall be permitted in the regulatory floodway as defined in the Middlesex County FIRMS.
- B. Permitted Uses.
 - 1. The following uses are permitted in the Floodplain District:
 - a. The following outdoor uses shall be permitted as of right provided no buildings or structures are erected:
 - b. Sales place for flowers as a principal use, garden supplies, agricultural produce, conducted partly or wholly outdoors, commercial greenhouse or garden
 - c. Farm (except the raising of livestock or poultry, if the farm is on less than five acres of land) or market garden but in no case shall goods or produce be sold that are not the natural products of the premises in question
 - d. Park, playground, or other outdoor recreational facility not conducted as a private business
 - e. Country, fishing, tennis, swimming, skating, golf club or other outdoor recreation facility not conducted as a private business
 - f. Wildlife management areas,
 - g. Foot, bicycle, or horse paths
 - 2. For single family detached dwellings, two-family dwellings, or duplex houses existing on the effective date of this Section is advertised (August 1975),⁶² the expansion of

⁶² Need specific date.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

these (or their accessory) uses to a maximum of 15 percent of the lot coverage existing when this section is enacted, provided that such expansions conform to Section 7 and do not constitute substantial improvement of a structure. Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which exceeds 50 percent of the actual cash value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Structures erected or expanded under this Section 9.1 shall use construction materials and utility equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage.

C. Special Permit.

1. The following shall require a special permit from the Board of Appeals or Arlington Redevelopment Board, as applicable.

- a. The proposed use, including filling or excavating, when combined with all existing uses, will not increase the water surface elevation of the 100-year flood;
- b. The proposed use shall comply with the regulations as amended in Massachusetts Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00 and Inland Wetlands Restriction (DEP) 310 CMR 13.00 and in the Conservation Commission's Wetlands Regulations promulgated under the Arlington Wetlands Bylaw (Title V, Article 8).
- c. Base Flood Elevation Data is required for proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.

The provisions of this subsection shall not apply to the reconstruction or repair of a structure unless it constitutes substantial improvements existing at the time of advertisement of this section (August 1975) after a fire or other casualty. However, major repairs shall use construction materials and utility equipment that are resistant to flood damage and construction methods and practices that will minimize flood damage.

- d. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

11.1.5. Procedures

- A. Application. Applicants for a special permit shall be made to the Board of Appeals or the Arlington Redevelopment Board, as applicable, in accordance with its rules and regulations.
- B. The Board shall hold a public hearing in accordance with Section 3.3 of this Bylaw and G.L. c. 40A, §§ 9 and 11.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- C. The Board shall not take final action on an application for a special permit until it has received a report from the Building Inspector, the Board of Health, the Conservation Commission, Town Engineer, and the Arlington Redevelopment Board (if applicable) or until 35 days have elapsed after receipt of such application and plans without submission of a report.
- D. The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.
- E. No occupancy permit shall be issued for special permit uses under this Section until the Building Inspector and the Board of Health, the Conservation Commission, Board of Appeals, and Arlington Redevelopment Board have received a certified plan showing the foundation and flood elevations, elevations of the completed construction, and until all requirements of all permits are satisfied.

11.1.6. Areas, Open Space, and Yard Regulations

The portion of any lot within the Floodplain District may be used to meet the lot area, open space and yard requirements for the district in which the remainder of the lot is situated.

11.1.7. Exemptions

- A. Where a proposed use is determined to fall within the limits of the Floodplain District and the applicant determines that the location is not included in the definition of the Floodplain District, said use may be exempt by the Board of Appeals or Arlington Redevelopment Board, as applicable, from the provisions of this section if the applicant provides sufficient evidence for the applicable Board to determine that the land in question should not be subject to the provisions of this Section.
- B. If it is determined that an area of significant size should no longer be included within the Floodplain District due to a natural or man-made event which has altered the boundary, the floodline determining the boundaries of the Floodplain District may be changed with approval from Town Meeting provided the new floodline to be adopted has been established in accordance with accepted engineering practice and certified by a registered professional engineer.

11.1.8. Notification of Alteration

In a riverine situation, the Director of Planning and Community Development shall notify the following of any alteration or relocation of a watercourse:

- Chief Executive Officers in Adjacent Communities
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

11.2. INLAND WETLAND DISTRICT⁶³

11.2.1. Purposes.

The purpose of this district is:

1. To preserve and protect the streams, water bodies, and other watercourses, including wetlands and marshlands, in the Town of Arlington.
2. To protect the health and safety of persons and property against the hazards of flooding and contamination.
3. To preserve and maintain the groundwater table for potential water supply purposes.
4. To protect the community against the detrimental use and development of lands adjoining such watercourses.
5. To conserve the watershed areas of the Town of Arlington for the health, safety, and welfare of the public.

11.2.2. Boundaries

The Inland Wetland District is superimposed over any other district established by this Bylaw and includes the following areas:

- A. All lands within the elevations shown on the Wetland and Floodplain Overlay Map of the Zoning Map and designated as wetlands. These include lakes, ponds, swamps, and marshes.
- B. All land area along all rivers, brooks, and streams for a horizontal distance of 25 feet from the center line thereof are included in the Inland Wetland District.
- C. All lands designated on the zoning map as having a shallow depth to water table. These lands are the poorly and very poorly drained mineral soils, and very poorly drained soils formed in organic deposits. Poorly drained mineral soils have a water table at or near the surface for 7 to 9 months during the year. The water table remains at or close to the surface of very poorly drained mineral and organic soils throughout most of the year.

11.2.3. Applicability

⁶³ Is this district still actively administered?

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

- A. Any proposed use to be located within the limits of the Inland Wetland District as determined by the Building Inspector shall be governed by all regulations of this Section as well as all other applicable provisions of this Bylaw.
- B. Where the phrase, “Board of Appeals or Arlington Redevelopment Board, as applicable,” appears in this Section 9.2, it shall mean “subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of activity subject to Section 3.5, Environmental Design Review.”

11.2.4. Use Regulations

- A. Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section.
- B. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:
 - 1. No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose without a special permit from the Board of Appeals or Arlington Redevelopment Board, as applicable. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 9.06 of this Bylaw.
 - 2. Dumping, filling, excavating, or transferring of any earth material within the district is prohibited without a special permit from the Board of Appeals or Arlington Redevelopment Board, as applicable. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw becomes effective.
 - 3. No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses without a special permit from the Board of Appeals or Arlington Redevelopment Board, as applicable.

11.2.5. Procedures

- A. Application. Applicants for a special permit shall be made to the Board of Appeals or the Arlington Redevelopment Board, as applicable, in accordance with its rules and regulations.
- B. The Board shall hold a public hearing in accordance with Section 3.3 of this Bylaw and G.L. c. 40A, §§ 9 and 11.
- C. The Board shall not take final action on an application for a special permit until it has received a report from the Building Inspector, the Board of Health, the Conservation Commission, Town Engineer, and the Arlington Redevelopment Board (if applicable) or

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

until 35 days have elapsed after receipt of such application and plans without submission of a report.

- D. The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.
- E. No occupancy permit shall be issued for special permit uses under this Section until the Building Inspector and the Board of Health, the Conservation Commission, Board of Appeals, and Arlington Redevelopment Board have received a certified plan showing the foundation and flood elevations, elevations of the completed construction, and until all requirements of all permits are satisfied.

11.2.6. Development Conditions

For development in the Inland Wetland District, the following conditions shall apply:

- A. If the lot(s) is to be served by a public sewerage system, the following conditions shall apply:
 - 1. A minimum of six test borings to a minimum depth of eight (8) feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.
 - 2. The floor level of areas to be occupied by human beings as living or work space shall be four (4) feet above the seasonal high water table and not subject to periodic flooding.
 - 3. If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.
 - 4. Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.
- B. If the lot(s) is to be served by an on-lot septic system, the following conditions including those listed previously shall apply:
 - 1. The leaching area designed for use, as well as a reserved area for future expansion or total future use, shall be plotted with dimensions on the site plan.
 - 2. A minimum of two percolation tests per leaching area shall be performed. The maximum groundwater table shall be determined during the last two weeks of March or the first three weeks of April.

Arlington Zoning Bylaw (Revised 2)
First Reading Draft 06-15-2017

At least two observation pits at least six (6) feet in depth shall be dug to determine soil profiles. The observation pits may be dug during other times of the year, and shall be accompanied by a detailed report compiled by a soil scientist or qualified engineer.

3. The leaching areas shall not be constructed in areas where the maximum groundwater elevation is less than 4 feet below the bottom of the leaching areas.
- C. The developer shall show that the proposed development will not endanger health and safety, including safety of gas, electricity, fuel, and other utilities from breaking, leaking, shortcircuiting, grounding, igniting or electrocuting; obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; adversely affect groundwater resources or increase stormwater run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.
- D. The Board of Appeals or Arlington Redevelopment Board, as applicable, shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Inspector of Buildings, the Board of Health, the Conservation Commission, Town Engineer, and the Arlington Redevelopment Board (if applicable), or until 35 days have elapsed after receipt of such plan without the submission of a report.
- E. The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.
- F. Occupancy Permit. No occupancy permit shall be issued until the Inspector of Buildings and the Board of Health, Conservation Commission, Town Engineer, and the Arlington Redevelopment Board have received a certified plan showing the foundation and flood elevations, grading of the premises, elevations of the completed construction, and all elevations of the various elements that make up the sewage disposal system, and until all requirements of all permits are satisfied.

11.2.7. Areas and Yard Regulations

The portion of any lot within the Inland Wetland District may be used to meet the lot area, open space and yard requirements for the District in which the remainder of the lot is situated.

11.2.8. Exemptions

Where a proposed use is determined to fall within the limits of the Inland Wetland District, but the applicant for the proposed use determines that the location for his proposed use is not wet or subject to periodic flooding and should not be subject to the Inland Wetland District, the Board of Appeals may exempt the use from the provisions of this section if the applicant provides sufficient evidence for the Board to make a determination.